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FRELINGHUYSEN

SPEECH OF MR.
FRELINGHUYSEN, OF
NEW JERSEY



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SPEECH

OF

MR. FRELINGHUYSEN,

OF NEW JERSEY,

DELIVERED

IN THE SENATE OF THE UNITED STATES,

APRIL 6, 1830,

ON THE BILL FOR AN EXCHANGE OF LANDS WITH THE INDIANS
RESIDING IN ANY OF THE STATES OR TERRITORIES,

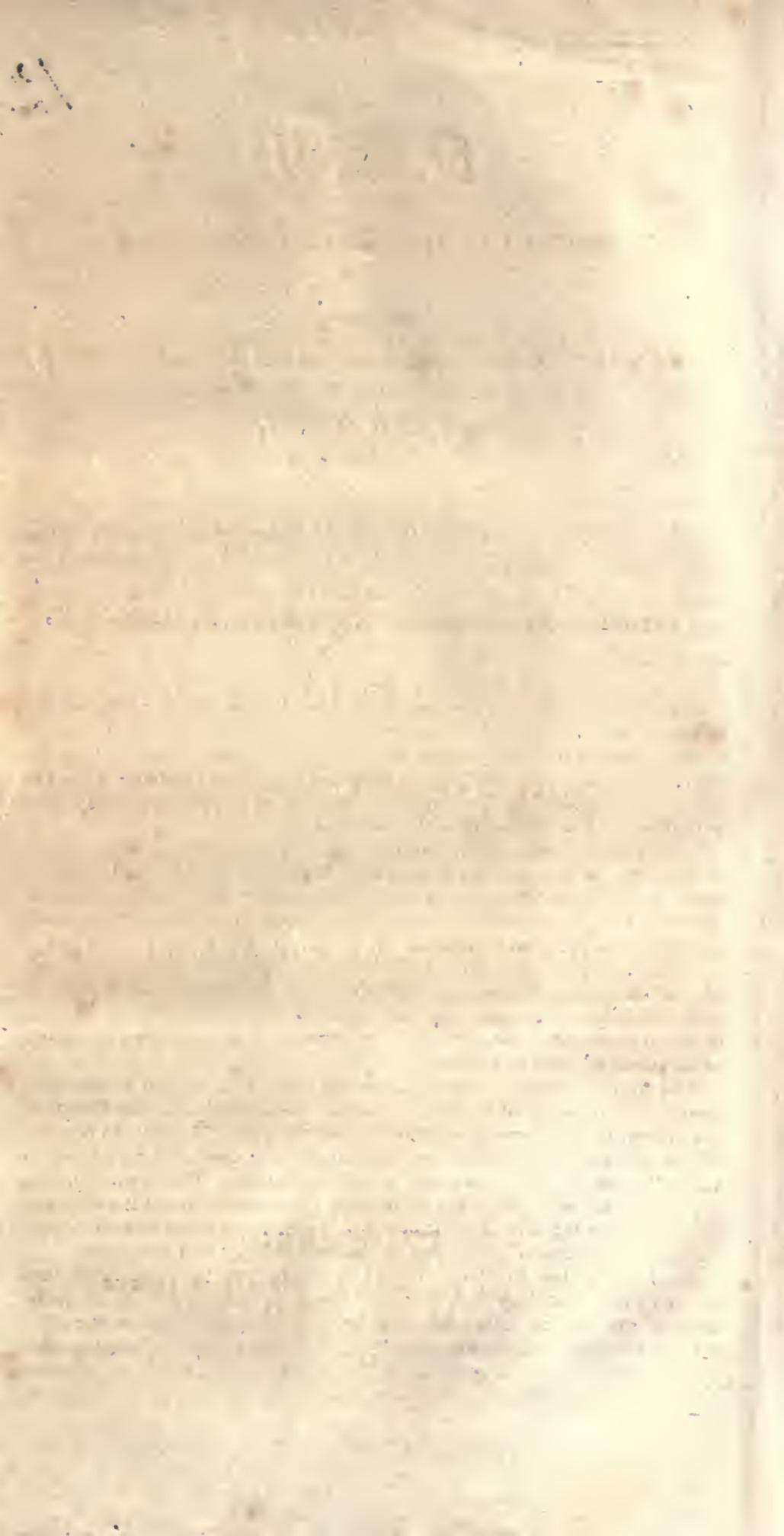
AND

FOR THEIR REMOVAL WEST OF THE MISSISSIPPI.

Washington:

PRINTED AND PUBLISHED AT THE OFFICE OF THE
NATIONAL JOURNAL

.....
1830.



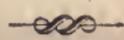
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SPEECH OF

MR. FRELINGHUYSEN, OF NEW JERSEY.



IN SENATE UNITED STATES—APRIL 6, 1830.



The Bill to provide for an exchange of Lands with the Indians residing in any of the States or Territories, and for their removal West of the river Mississippi, being under consideration, MR. FRELINGHUYSEN spoke as follows :—

MR. PRESIDENT : I propose an amendment to this bill, by the addition of two sections in the form of provisos. The first of which brings up to our consideration the nature of our public duties, in relation to the Indian Nations; and the second provides for the continuance of our future negotiations, by the mode of treaties, as in our past intercourse with them. The following is the amendment :

“ Provided always, That, until the said tribes or nations shall choose to remove, as by this act is contemplated, they shall be protected in their present possessions, and in the enjoyment of all their rights of territory and government, as heretofore exercised and enjoyed, from all interruptions and encroachments.

“ And provided also, That before any removal shall take place of any of the said tribes or nations, and before any exchange or exchanges of land be made as aforesaid, that the rights of any such tribes or nations in the premises shall be stipulated for, secured and guaranteed by treaty or treaties as heretofore made.”

The first of these sections discloses the real object sought by this bill, seemingly composed of harmless clauses. It supposes that the design of the system of which the present bill forms but a part, is really to remove all the Indian tribes beyond the Mississippi, or in case of their refusal, to subject them to State sovereignty and legislation. The Hon. Senator, (Mr. WHITE,) who yesterday addressed the Senate, found it necessary so to consider it; and to anticipate and endeavor to meet all such objections to this course of policy, as he deemed worthy of a refutation.

Sir, I prefer that this latent object should be put fully before us, that we and the nation may look at it, and freely scrutinize it. At an early stage of the present Administration, its views and opinions on the interesting subject of our Indian relations, were developed in language not to be mistaken. It is greatly to be regretted, Sir, that our present Chief Magistrate did not pursue the wise and prudent policy of his ex-

alted predecessor, President Washington, who, at a time of collision and difficulty with these tribes, came before the Senate, and laid open to them, in propositions for their approbation, the various important subjects involved in our relations. The annexed extract from the Journals of the Senate illustrates the principles of Washington's Administration. It follows :

“ SATURDAY, August 22, 1789.

“ The President of the United States came into the Senate, attended by General Knox, and laid before the Senate the following state of facts, with the questions thereto annexed, *for their advice and consent.*”

This was a most important document. It developed all the collisions that existed between the Indian tribes and the States; and referred to the consideration of the Senate certain leading principles of policy which he thought it was wise to pursue.

These principles are embodied in seven distinct interrogatories. The 4th of which submits to the Senate “ whether the United States shall solemnly guarantee to the Creeks their remaining territory, and maintain the same, if necessary, *by a line of military posts.*” This question “ was wholly answered in the affirmative” by that body, and the blank (for an appropriation of necessary funds) was ordered to be filled at the discretion of the President of the United States. Again, on the 11th of August, 1790, President Washington sent a special message to the Senate by his Secretary, the subject matter of which he introduces by the following suggestion :

“ *Gentlemen of the Senate :*

“ Although the treaty with the Creeks may be regarded as the main foundation of the future peace and prosperity of the Southwestern frontier of the United States, yet, in order fully to effect so desirable an object, the treaties which have been entered into with the other tribes in that quarter must be *faithfully performed* on our part.”

He then proceeds to remind the Senate, that, by the treaty with the Cherokees, in November, 1785, (the treaty of Hopewell,) ‘ the said Cherokees placed themselves under the protection of the United States, and had a boundary assigned them ;’ that the white people settled on the frontiers had openly violated the said boundary by intruding on the Indian lands ; that the United States in Congress Assembled, on the first day of September, 1788, had, by their proclamation, forbidden all such unwarrantable intrusions, enjoined the intruders to depart without loss of time ; but that there were still some refractory intruders remaining. The *President* then distinctly announces his determination to exert the powers entrusted to him by the Constitution, in order to carry into faithful execution the treaty of Hopewell, unless a new boundary should be arranged with the Cherokees embracing the intrusive settlement, and compensating the Cherokees in the cessions they shall make on the occasion. And in view of the whole case, he requests the advice of the Senate, whether overtures shall be made to the Cherokees to arrange such new boundary, and concludes his communication with the following emphatical question : “ 3d. Shall the United States stipulate solemnly to guarantee the new boundary which may be arranged ?”

It produced as pointed a response—for the Senate

“ *Resolved,* In case a new or other boundary than that stipulated by the treaty of Hopewell, shall be concluded with the Cherokee Indians,

that the Senate do advise and consent solemnly to guarantee the same." A new boundary was arranged by a second treaty; the solemn guarantee was given to the Cherokees; and cogent, indeed, should be the causes that now lead us to think or speak lightly of such sacred obligations.

I lament, Sir, that so bright and illustrious a precedent was not regarded, and that the President had not yielded to the safe guidance of such high example; and I deplore it the more because it was concerning these very tribes, in the State of Georgia, that General Washington chose to confer with his constitutional advisers.

Instead of this just proceeding, the present Administration have thought proper, without the slightest consultation with either House of Congress—without any opportunity for counsel or concert, discussion or deliberation, on the part of these co-ordinate branches of the Government, to despatch the whole subject in a tone and style of decisive construction of our obligations and of Indian rights. It would really seem, Sir, as if opinion was to be forestalled, and the door of inquiry shut forever upon these grave questions, so deeply implicating our national faith and honor.

We must firmly protest against this Executive disposition of these high interests. No one branch of the Government can rescind, modify or explain away our public treaties. They are the supreme law of the land, so declared to be by the Constitution. They bind the President and all other departments, rulers and people. And when their provisions shall be controverted—when their breach or fulfilment become subjects of investigation—here, Sir, and in the other Hall of our Legislation, are such momentous concerns to be debated and considered. That we may freely exercise these essential powers, and review the proclaimed opinions of the Executive, I have submitted the first branch of the amendment. We possess the constitutional right to inquire wherefore it was that, when some of these tribes appealed to the Executive for protection, according to the terms of our treaties with them, they received the answer that the Government of the United States could not interpose to arrest or prevent the legislation of the States over them. Sir, this was a harsh measure, indeed, to faithful allies, that had so long reposed in confidence on a nation's faith. They had in the darkest hour of trial turned to the ægis which the most solemn pledges had provided for them, and were comforted by the conviction that it would continue to shed upon them a pure and untarnished beam of light and hope. Deep, indeed, must have been their despondency, when their political father assured them that their confidence would be presumptuous, and dissuaded them from all expectation of relief.

Mr. President: The instructions that have proceeded from the War Department to the Agents of Indian Affairs have excited just and strong jealousies of the measures that are now recommended. They have prompted this amendment, in the hope that by some public and decided expression of our disapprobation, a train of political management with these tribes may be arrested, and our country saved from the dishonor of buying over the consent of corrupted Chiefs, to a traitorous surrender of their country.

I will read a part of these instructions; they are from the War Department to Generals Carroll and Coffee, of the date of 30th May,

1829: "The past (remarks the Secretary, in respect to *Indian councils*,) has demonstrated their utter aversion to this mode, whilst it has been made equally clear, that another mode promises greater success. In regard to the first, (that by councils,) the Indians have seen in the past, that it has been by the result of councils that the extent of their country has been from time to time diminished. They all comprehend this. Hence it is that those who are interested in keeping them where they are alarm their fears, and by previous cautioning induce them to reject all offers looking to this object. There is no doubt, however, but the mass of the people would be glad to emigrate; and there is as little doubt that they are kept from this exercise of their choice by their chiefs and other interested and influential men," &c. Again: "Nothing is more certain than that if the chiefs and influential men could be brought into the measure, the rest would implicitly follow. It becomes, therefore, a matter of necessity, if the General Government would benefit these people, *that it move upon them in the line of their own prejudices*, and, by the adoption of any proper means, break the power that is warring with their best interests. The question is, how can this be best done? Not, it is believed, for the reasons suggested, by means of a general council. There, they would be awakened to all the intimations which those who are opposed to their exchange of country might throw out; and the consequence would be—what it has been—a firm refusal to acquiesce. The best resort is believed to be that which is embraced in an appeal to the chiefs and influential men, *not together*, but apart, at their own houses, and, by a proper exposition of their real condition, rouse them to think of that; whilst offers to them, of extensive reservations in fee simple, and other rewards, would, it is hoped, result in obtaining their acquiescence."

Let us analyze this singular state paper. It does not relish the congregation of Indian councils. In these assemblies, they deliberate and weigh the policy of measures—they calculate the results of proposed improvements. These councils embody the collected wisdom of the tribes. Their influence is of the authority of law; the people look to them for protection. They know that in the multitude of counsellors there is *safety*. Hence nations, far in advance of the Indians, always meet in council, when their great interests are to be promoted or defended. But these special agents are discouraged from hoping that the object can be obtained in this good old fashioned way. The Indians are too *wise* to be caught when the net is spread so fully in sight. They are directed to avoid all *associations*; and, with the public purse in hand, to take the chiefs *alone*—to approach individually, and at *home*—"to meet them in the way of their prejudices." I admire the ingenious clothing of a most odious proposal.

A strong hint is suggested to try the effect of terror, and, by a proper exposition of their real condition, rouse them to think upon that, and to follow this up with "large offers to them of extensive reservations in fee simple, and other rewards." The report made by one of these agents to the War Department, dated September 2d, 1829, still further discloses the nature of the exigencies to which the Indians are to be subjected, to constrain their removal. The agent observes, "The truth is, they (Cherokees) rely with great confidence on a favorable report on the petitions they have before Congress. *If that is rejected, and the laws*

of the States are enforced, you will have no difficulty in obtaining an exchange of lands with them." It may be true, that if we withdraw our protection, give them over to the high-handed, heart-breaking legislation of the States, and drive them to despair, that when improper means fail to win them, force and terror may compel them. We shall have no difficulty, the agent assures the War Department. Sir, there will be one difficulty that should be deemed insurmountable. Such a process will disgrace us in the estimation of the whole civilized world. It will degrade us in our own eyes, and blot the page of our history with indelible dishonor.

Now, Sir, I have brought this measure before the Senate, and wait with intense anxiety to hear the final disposition of it. Where is the man that can, in view of such policy, open the door, or afford the slightest facility to the operation of influences that we should blush with honest shame could we, in an unguarded moment, consent to have employed them with our equal in the scale of civilization. It is not intended, Sir, to ascribe this policy exclusively to the present Administration. Far from it. The truth is, we have long been gradually, and almost unconsciously, declining into these devious ways, and we shall inflict lasting injury upon our good name, unless we speedily abandon them.

I now proceed to the discussion of those principles which, in my humble judgment, fully and clearly sustain the claims of the Indians to all their political and civil rights, as by them asserted.

And here, Mr. President, I insist that, by immemorial possession, as the original tenants of the soil, they hold a title beyond and superior to the British crown and her colonies, and to all adverse pretensions of our confederation and subsequent Union. God, in his Providence, planted these tribes on this Western continent, so far as we know, before Great Britain herself had a political existence. I believe, Sir, it is not now seriously denied that the Indians are men, endowed with kindred faculties and powers with ourselves; that they have a place in human sympathy, and are justly entitled to a share in the common bounties of a benignant Providence. And, with this conceded, I ask in what code of the law of nation, or by what process of abstract deduction, their rights have been extinguished?

Where is the decree or ordinance that has stripped these early and first lords of the soil? Sir, no record of such measure can be found. And I might triumphantly rest the hopes of these feeble fragments of once great nations upon this impregnable foundation. However mere human policy, or the law of power, or the tyrant's plea of expediency, may have found it convenient at any or in all times to recede from the unchangeable principles of eternal justice, no argument can shake the political maxim—that where the Indian always *has been*, he enjoys an absolute right still *to be*, in the free exercise of his own modes of thought, government and conduct.

Mr. President: In the light of natural law, can a reason for a distinction exist in the mode of enjoying that which is my own. If I use it for hunting may another take it because he needs it for agriculture? I am aware that some writers have, by a system of artificial reasoning, endeavored to justify, or rather, excuse the encroachments made upon Indian territory; and they denominate these abstractions the law of nations, and, in this

ready way, the question is despatched. Sir, as we trace the sources of this law, we find its authority to depend either upon the conventions or common consent of nations. And when, permit me to inquire, were the Indian tribes ever consulted on the establishment of such a law? Whoever represented them or their interests in any Congress of nations, to confer upon the public rules of intercourse, and the proper foundations of dominion and property? The plain matter of fact is, that all these partial doctrines have resulted from the selfish plans and pursuits of more enlightened nations; and it is not matter for any great wonder, that they should so largely partake of a mercenary and exclusive spirit towards the claims of the Indians.

It is however admitted, Sir, that when the increase of population and the wants of mankind demand the cultivation of the earth, a duty is thereby devolved upon the proprietors of large and uncultivated regions, of devoting them to such useful purposes. But such appropriations are to be obtained by fair contract, and for reasonable compensation. It is, in such a case, the duty of the proprietor to sell—we may properly address his reason to induce him; but we cannot rightfully compel the cession of his lands, or take them by violence if his consent be withheld. It is with great satisfaction, that I am enabled upon the best authority to affirm, that this duty has been largely and generously met and fulfilled on the part of the aboriginal proprietors of this continent. Several years ago, official reports to Congress stated the amount of Indian grants to the United States to exceed 214 millions of acres. Yes, Sir, we have acquired, and now own, more land as the fruits of their bounty than we shall dispose of at the present rate to actual settlers in two hundred years. For, very recently, it has been ascertained on this floor, that our public sales average not more than about one million of acres annually. It greatly aggravates the wrong that is now meditated against these tribes to survey the rich and ample districts of their territories that either force or persuasion have incorporated into our public domains. As the tide of our population has rolled on, we have added purchase to purchase—the confiding Indian listened to our professions of friendship—we called him brother, and he believed us—millions after millions, he has yielded to our importunity, until we have acquired more than can be cultivated in centuries—and yet we crave more. We have crowded the tribes upon a few miserable acres on our Southern frontier—it is all that is left to them of their once boundless forests, and still, like the horseleech, our insatiated cupidity cries give, give.

Before I proceed to deduce collateral confirmations of this original title, from all our political intercourse and conventions with the Indian tribes, I beg leave to pause a moment, and view the case as it lies beyond the treaties made with them; and aside also from all conflicting claims between the confederation and the colonies, and the Congress of the States. Our ancestors found these people, far removed from the commotions of Europe, exercising all the rights, and enjoying the privileges of free and independent sovereigns of this new world. They were not a wild and lawless horde of banditti; but lived under the restraints of Government, patriarchal in its character and energetic in its influence. They had chiefs, head men and councils. The white men, the authors of all their wrongs, approached them as friends—they extended the olive branch, and being then a feeble colony, and at the mercy of the native

tenants of the soil, by presents and professions, propitiated their good will. The Indian yielded a slow, but substantial confidence—granted to the colonies an abiding place, and suffered them to grow up to man's estate beside him. He never raised the claim of elder title—as the white man's wants increased, he opened the hand of his bounty wider and wider. By and by, conditions are changed. His people melt away; his lands are constantly coveted; millions after millions are ceded. The Indian bears it all meekly; he complains, indeed, as well he may; but suffers on; and now he finds that this neighbor, whom his kindness had nourished, has spread an adverse title over the *last remains* of his patrimony, barely adequate to his wants, and turns upon him, and says: "away, we cannot endure you so near us. These forests and rivers, these groves of your fathers, these firesides and hunting grounds, are ours by the right of power, and the force of numbers." Sir, let every treaty be blotted from our records, and in the judgment of natural and unchangeable truth and justice, I ask who is the injured, and who is the aggressor? Let conscience answer, and I fear not the result. Sir, let those who please, denounce the public feeling on this subject, as the morbid excitement of a false humanity; but I return with the inquiry, whether I have not presented the case truly, with no feature of it overcharged or distorted? And, in view of it, who can help feeling, Sir? Do the obligations of justice change with the color of the skin? Is it one of the prerogatives of the white man, that he may disregard the dictates of moral principles, when an Indian shall be concerned? No, Mr. President. In that severe and impartial scrutiny which futurity will cast over this subject, the righteous award will be, that those very causes which are now pleaded for the relaxed enforcement of the rules of equity, urged upon us not only a rigid execution of the highest justice, to the very letter, but claimed at our hands a generous and magnanimous policy.

Standing here, then, on this unshaken basis, how is it possible that even a shadow of claim to soil or jurisdiction can be derived, by forming a collateral issue between the State of Georgia and the General Government? Her complaint is made against the United States, for encroachments on her sovereignty. Sir, the Cherokees are no parties to this issue; they have no part in this controversy. They hold by better title than either Georgia or the Union. They have nothing to do with State sovereignty, or United States sovereignty. They are above and beyond both. True, Sir, they have made treaties with both, but not to *acquire title* or jurisdiction; *these* they had *before*—ages before the evil hour, to them, when their white brothers fled to them for an asylum. They treated, to secure protection and guaranty for subsisting powers and privileges; and so far as those conventions raise obligations, they are willing to meet, and always have met, and faithfully performed them; and now expect from a great People, the like fidelity to plighted covenants.

I have thus endeavored to bring this question up to the control of first principles. I forget all that we have promised, and all that Georgia has repeatedly conceded, and by her conduct confirmed. Sir, in this abstract presentation of the case, stripped of every collateral circumstance, and these only, the more firmly establish the Indian claims, thus regarded; if the contending parties were to exchange positions; place the white man where the Indian stands; load *him* with all these wrongs,

and what path would his outraged feelings strike out for his career? Twenty shillings tax, I think it was, imposed upon the immortal Hampden, roused into activity the slumbering fires of liberty in the old world, from which she dates a glorious epoch, whose healthful influence still cherishes the spirit of freedom. A few pence of duty on tea, that invaded no fireside, excited no fears, disturbed no substantial interest whatever, awakened in the American colonies a spirit of firm resistance; and how was the tea tax met, Sir? Just as it should be. There was lurking beneath this trifling imposition of duty, a covert assumption of authority, that led directly to oppressive exactions. "No taxation without representation" became our motto. We would neither pay the tax nor drink the tea. Our fathers buckled on their armour, and, from the water's edge, repelled the encroachments of a misguided cabinet. We successfully and triumphantly contended for the very rights and privileges that our Indian neighbors now implore us to protect and preserve to them. Sir, this thought invests the subject under debate with most singular and momentous interest. *We*, whom God has exalted to the very summits of prosperity—whose brief career forms the brightest page in history; the wonder and praise of the world; Freedom's hope, and her consolation. *We*, about to turn traitors to our principles and our fame—about to become the oppressors of the feeble, and to cast away our birth-right! Mr. President, I hope for better things.

It is a subject full of grateful satisfaction, Mr. President, that, in our public intercourse with the Indians, ever since the first colonies of white men found an abode on these western shores, we have distinctly recognised their title; treated with them as the owners, and in all our acquisitions of territory applied ourselves to these ancient proprietors, by purchase and cession alone, to obtain the right of soil. Sir, I challenge the record of any other or different pretension. When or where did the assembly or convention meet which proclaimed, or even suggested to these tribes, that the right of discovery contained a superior efficacy over all prior titles.

And our recognition was not confined to the soil merely. We regarded them *as nations*—far behind us indeed in civilization, but still we respected their forms of government—we conformed our conduct to their notions of civil policy. We were aware of the potency of any edict that sprang from the deliberations of the council fire; and when we desired lands, or peace, or alliances to this source of power and energy, to this great lever of Indian government we addressed our proposals—to this alone did we look, and from this alone did we expect aid or relief.

I now proceed, very briefly, to trace our public history in these important connexions. As early as 1763, a proclamation was issued by the King of Great Britain to his American colonies and dependencies, which, in clear and decided terms, and in the spirit of honorable regard for Indian privileges, declared the opinions of the Crown and the duties of its subjects. The preamble to that part of this document which concerns Indian affairs, is couched in terms that cannot be misunderstood. I give a literal extract: "And whereas it is just and reasonable, and essential to our interest and the security of our colonies, that the *several nations* or tribes of Indians *with whom we are connected, and who live under our protection*, should not be molested or disturbed in the possession of such parts of our dominions and territories, *as not having been ceded to or purchased by us*, are reserved to them or any of them as

their hunting grounds." Therefore the governors of colonies are prohibited, upon any pretence whatever, from granting any warrants of survey, or passing any patents for lands, "upon any lands whatever, which, not having been ceded or purchased, were reserved to the said Indians;" and, by another injunction in the same proclamation, "all persons whatever, who have either wilfully or inadvertently seated themselves upon any lands, which, not having been ceded to or purchased by the Crown, were reserved to the Indians as aforesaid, are strictly enjoined and required to remove themselves from such settlements."

This royal ordinance is an unqualified admission of every principle that is now urged in favor of the liberties and rights of these tribes. It refers to them as nations that had put themselves under the protection of the Crown; and adverting to the fact that their lands had not *been ceded or purchased*, it freely and justly runs out the inevitable conclusion that they are reserved to these nations as their property; and forbids all surveys and patents, and warns off all intruders and trespassers. Sir, this contains the epitome of Indian history and title. No King, Colony, State or Territory, ever made, or attempted to make, a grant or title to the Indians, but universally and perpetually derived their titles *from* them. This one fact, that stands forth broadly on the page of Indian history—which neither kings nor colonies—neither lords, proprietors; nor diplomatic agents, have, on any single occasion, disputed, is alone sufficient to demolish the whole system of political pretensions, conjured up in modern times, to drive the poor Indian from the last refuge of his hopes.

The next important era in the order of time, relates to the dispute of the Colonies with Great Britain. The attention of the Congress on the eve of that conflict was called to the situation of these tribes, and their dispositions on that interesting subject. Then, Sir, we approached them as independent nations, with the acknowledged power to form alliances with or against us. For, in June, 1775, our Congress resolved, "That the Committee for Indian Affairs do prepare proper talks to the several tribes of Indians, for engaging the *continuance of their friendship to us, and neutrality* in our present unhappy dispute with Great Britain." Again, on the 12th July, 1775, a report of the Committee was agreed to, with the following clause at its head: "That the securing and preserving *the friendship of the Indian nations*, appears to be a subject of the utmost moment to these colonies." And, Sir, the journals of that eventful period of our history are full of resolutions, all of which indicate the same opinions of those illustrious statesmen, respecting the unquestioned sovereignty of the Indians. I forbear further details. After the revolution, and in the eighth year of our Independence, in the month of September, A. D. 1783, the Congress again took up the subject of Indian affairs, and resolved to hold a convention with the Indians residing in the Middle and Northern States, who had taken up arms against us, for the purposes of receiving them into the favor and protection of the United States, *and of establishing boundary lines of property*, for separating and dividing the settlements *of the citizens from the Indian* villages and hunting grounds, and thereby extinguishing, as far as possible, all occasion for future animosities, disquiet and contention." If, at any point of our existence as a people, a disposition to encroach upon the Indians, and to break down their separate and sovereign character, could have been looked for, or at all excused, this was the time; when we had just

come out of a long, severe and bloody conflict, often prosecuted by our foes with unnatural barbarity, and to aggravate which, these very tribes had devoted their savage and ferocious customs. And yet, Sir, what do we find? Instead of the claims of conquest, the rights of war, now so convenient to set up, the American Congress, greatly just, accord to these very Indians the character of foreign nations, and invite them to take shelter under our favor and protection; not only this, but adopt measures to ascertain and establish *boundary lines of property between our citizens and their villages and hunting grounds.*

Under the confederation of the old thirteen States, and shortly before the adoption of the Constitution, on the 20th of November, 1785, a treaty was made with the Cherokee nation at Hopewell. This treaty, according to its title, was concluded between "*Commissioners Plenipotentiary of the United States of America, of the one part, and the Headmen and Warriors of all the Cherokees, of the other.*" It gives "*peace to all the Cherokees,*" and receives them into the favor and protection of the United States. And, by the first article, the Cherokees agree to restore all the prisoners, *citizens of the United States, or subjects of their allies, to their entire liberty.*" Here, again, we discover the same magnanimous policy of renouncing any pretended rights of a conqueror in our negotiations with the allies of our enemy. We invite them to peace; we engage to become their protectors, and in the stipulation for the liberation of prisoners, we trace again the broad line of distinction between *citizens* of the United States and the Cherokee people.

Who, after this, Sir, can retain a single doubt as to the unquestioned political sovereignty of these tribes. It is very true, that they were not absolutely independent. As they had become comparatively feeble, and as they were, in the mass, an uncivilized race, they chose to depend upon us for protection; but this did not destroy or affect their sovereignty. The rule of public law is clearly stated by Vattel—"one community may be bound to another by a very unequal alliance, and still be a sovereign State. Though a weak State, in order to provide for its safety, should place itself under the protection of a more powerful one, yet, if it reserves to itself *the right of governing its own body,* it ought to be considered as an independent State." If the right of self-government is retained, the State preserves its political existence; and, permit me to ask, when did the Southern Indians relinquish this right? Sir, they have always exercised it, and were never disturbed in the enjoyment of it, until the late Legislation of Georgia and the States of Alabama and Mississippi.

The treaty next proceeds to establish territorial domains, and to forbid all intrusions upon the Cherokee country, by any of our citizens, on the pains of outlawry. It provides, that if any citizen of the United States shall remain on the lands of the Indians for six months "*after the ratification of the treaty, such person shall forfeit the protection of the United States, and the Indians may punish him or not, as they please.*" What stronger attribute of sovereignty could have been conceded to this tribe, than to have accorded to them the power of punishing our citizens according to their own laws and modes; and, Sir, what more satisfactory proof can be furnished to the Senate, of the sincere and inflexible purpose of our government to maintain the rights of the Indian nations, than the annexation of such sanctions as the forfeiture of national pro-

fection, and the infliction of any punishment within the range of savage discretion. It is to be recollected, that this treaty was made at a time when all admit the Cherokees to have been, with very rare exceptions, in the rudest state of Pagan darkness.

Mr. President, it is really a subject of wonder, that after these repeated and solemn recognitions of right of soil, territory and jurisdiction, in these aboriginal nations, it should be gravely asserted that they are mere occupants at our will; and, what is absolutely marvellous, that they are a part of the *Georgia population*—a district of her territory, and amenable to her laws, whenever she chooses to extend them.

After the treaty of Hopewell was made and ratified, and in the year 1787, the States of North Carolina and Georgia transmitted their protests to Congress, in which they complained of the course of transactions adopted with respect to the Indians, and asserted a right in the States to treat with these tribes, and to obtain grants of their lands. The Congress referred the whole matter to a Committee of five, who made an elaborate report, that disclosed the principles upon which the intercourse of the confederacy with these people was founded. It is material to a correct understanding of this branch of the subject, that we should advert to a limitation, subsisting at that time, upon the powers of the old Congress. The limitation is contained in the following clause of the articles of confederation:—"Congress shall have the sole and exclusive right and power of regulating the trade and managing all affairs with the Indians not members of any other States: provided that the legislative right of any State within its own limits be not infringed or violated."

Upon this clause and its proviso, the Committee proceed to report: "In framing this clause the parties to the federal compact must have had some definite objects in view; the objects that come into view principally in forming treaties, or managing affairs with the Indians, *had been long understood*, and pretty well ascertained, in this country. The Committee conceive that it has been long the opinion of the country, *supported by justice and humanity*, that the Indians have *just claims to all lands* occupied by, and *not fairly purchased* from them." "The laws of the State can have no effect upon a tribe of Indians or their lands within a State, so long as that tribe is independent and not a member of the State. It cannot be supposed that the State has the powers mentioned," (those of making war and peace, purchasing lands from them and fixing boundaries,) "without absurdity in theory and practice. For the Indian tribes are justly considered the *common friends or enemies of the United States*, and *no particular State* can have an exclusive interest in the management of affairs with any of the tribes, except in uncommon cases." The Senate perceive the estimate that was formed of these State pretensions. The Committee argue with conclusive energy, that to yield such powers to particular States, would not only be absurd in theory, but would in fact destroy the whole system of Indian relations—that this divided, alternate cognisance of the matter, by the States and by the Congress, could never be enforced, and would result in discordant and fruitless regulations. The grounds assumed in this able report are unanswerable. The Committee regarded the subject as national, concerning the whole United States, of whom the Indians were the common friends or foes. That such a concern was too general and public in all its bearings, to be subjected to the legislation and management of any

particular State. The Congress, therefore, assumed the entire jurisdiction and control of it. And after this report, we hear no more of State protests. They yielded their claims to a much safer depository of this interesting trust. Sir, I take leave to say, that the sound, sensible principles of this report have lost nothing of their authority by time, and that every year of our history has confirmed their wisdom; and illustrated the justice and humanity of the Congress of '87.

The Convention that formed and adopted the Constitution, in their deliberations upon the security of Indian rights, wisely determined to place our relations with the tribes under the absolute superintendence of the General Government, which they were about to establish. The proviso under the old compact, that had in ambiguous terms reserved to particular States an undefined management of Indian Affairs, was altogether discarded, and the simple, unqualified control of this important branch of public policy, was delegated to Congress, in the following clause of the Constitution: "Congress shall have power to regulate commerce with *foreign nations*, among *the several States*, and with *the Indian tribes*." An incidental argument, in favor of my views, cannot fail to strike the mind on the face of this clause. The plea that is now, for the first time, urged against the Indians, rests upon the allegation, that the tribes are not distinct nations—that they compose a portion of the people of the States; and yet, in this great national charter, the work of as much collected wisdom, virtue and patriotism, as ever adorned the annals, or shed light upon the government of any age or country, the Indian tribes are associated with foreign nations and the several States, as one of *the three distinct* departments of the human family, with which the General Government was to regulate commerce. Strange company, truly, in which to find those it now seems convenient to denominate a few poor, miserable savages, that were always the peculiar subjects of State sovereignty, mere tenants at will of the soil, and with whom it is "idle" to speak of negotiating treaties.

There was another subject, closely connected with this, that engaged the anxious deliberations of the great statesmen who composed the memorable convention—and this was the treaty power. To found this well, was a concern worthy of their first and best thoughts. The good faith of a nation was not to be pledged but on grave and great occasions: for when plighted, it brought the nation itself under obligations, too sacred to be argued away by the suggestions of policy or convenience, profit or loss. They, therefore, subjected the exercise of this high function to two great departments of the Government—the President and Senate of the United States. They required formalities to attend the exercise of the power, that were intended and calculated to guard the trust from rash and inconsiderate administration. But these requisites complied with, and a treaty made and concluded, no retreat from its claims was provided or desired by the convention. No, Sir. To shut up every avenue of escape—to compel us to be faithful, "Treaties" are declared, by the charter of our Government, "*to be the supreme law of the land, any thing in the constitution or laws of any State to the contrary notwithstanding.*" How could the inviolate character of a treaty be more effectually preserved? Let convulsions agitate the commonwealth—let the strifes of party shake the pillars of the political edifice—around the nation's faith barriers are raised, that may smile at the storm.

And, Sir, if these guards fail; if these defences can be assailed and broken down, then may we indeed despair. Truth and honor have no citadel on earth—their sanctions are despised and forgotten, and the law of the strongest prevails.

Mr. President, I fear that I shall oppress the patience of the Senate by these tedious details—but the subject is deeply interesting, and each successive year of our political history brings me fresh and strong proofs of the sacred estimation always accorded to Indian rights. Sir, in the very next year that followed the formation of the Constitution, on the first of September, 1788, the encroachments of the whites upon the Indian territory, as guaranteed to them by the treaty of Hopewell, made with the Cherokees, as we have already stated, in 1785, caused a proclamation to be issued by Congress, of the date first mentioned, affirming in all things the treaty of Hopewell, and distinctly announcing, (I give the literal clause,) “*the firm determination of Congress to protect the said Cherokees in their rights, according to the true intent and meaning of the said treaty.*” And they further resolve “*that the Secretary of War be directed to have a sufficient number of the troops in the service of the United States, in readiness to march from the Ohio, to the protection of the Cherokees, whenever Congress shall direct the same.*”

The next important event in connexion with the Cherokees, is the treaty of Holston, made with them on the 2d July, 1791. This was the first treaty that was negotiated with the Cherokees after the Constitution. And it is only necessary to consider the import of its preamble to become satisfied of the constancy of our policy, in adhering to the first principles of our Indian negotiations. Sir, let it be remembered that this was a crisis when the true spirit of the Constitution would be best understood; most of those who framed it came into the councils of the country in 1788. Let it be well pondered, that this treaty of Holston was the public compact, in which General Washington, as a preparative solemnity, asked the advice of the Senate—and concerning which he inquired of that venerable body, whether, in the treaty to be made, the United States should solemnly guarantee the new boundary, to be ascertained and fixed between them and the Cherokees.

The preamble to this treaty, I will now recite :

“The parties being desirous of establishing permanent peace and friendship between the United States and the said Cherokee nation and the citizens and members thereof, and to remove the causes of war, by ascertaining their limits and making other necessary, just and friendly arrangements: the President of the United States, by William Blount, Governor of the territory of the United States of America South of the river Ohio, and Superintendent of Indian Affairs for the Southern District, *who is vested with full powers for these purposes, by and with the advice and consent of the Senate of the United States;* and the Cherokee nation, by the undersigned Chiefs and Warriors representing the said nation, have agreed to the following articles,” &c.

The first article stipulates that there shall be *perpetual peace and friendship* between the parties—a subsequent article provides that the boundary between the United States and Cherokees “shall be ascertained and marked plainly, by three persons appointed on the part of the United States, and three Cherokees on the part of their nation.”

In pursuance of the advice of the Senate, by the 7th article of this

treaty, "The United States *solemnly guarantee* to the Cherokee nation *all their lands not her-by ceded.*"

And after several material clauses, the concluding article suspends the effect and obligation of the treaty upon its *ratification* "by the President of the United States, with the advice and consent of the Senate of the United States."

Now, Sir, it is a most striking part of this history, that every possible incident, of form, deliberation, advisement and power, attended this compact. The Senate was consulted before our plenipotentiary was commissioned—full powers were then given to our Commissioner—the articles were agreed upon—the treaty referred to the Executive and Senate for their ratification, and, with all its provisions, by them solemnly confirmed.

Mr. President, it requires a fulness of *self-respect* and self-confidence, the lot of a rare few, after time has added its sanctions to this high pledge of national honor, to attempt to convict the illustrious men of that Senate of gross ignorance of constitutional power; to charge against them that they strangely mistook the charter under which they acted; and violated almost the proprieties of language, as some gentlemen contend, by dignifying with the name and formalities of a treaty "*mere bargains to get Indian lands.*" Sir, who so well understood the nature and extent of the powers granted in the constitution as the statesmen who aided by their personal counsels to establish it?

Every Administration of this Government, from President Washington's, have, with like solemnities and stipulations, held treaties with the Cherokees; treaties, too, by almost all of which we obtained further acquisitions of their territory. Yes, Sir, whenever we approached them in the language of friendship and kindness, we touched the chord that won their confidence: and now, when they have nothing left with which to satisfy our cravings, we propose to annul every treaty—to gainsay our word—and, by violence and perfidy, drive the Indian from his home. In a subsequent treaty between the United States and the Cherokee nation, concluded on the 8th July, A. D. 1817, express reference is made to past negotiations between the parties, on the subject of removal to the west of the Mississippi; the same question that now agitates the country, and engages our deliberations. And this convention is deserving of particular notice, inasmuch as we shall learn from it, not only what sentiments were then entertained by our Government towards the Cherokees, but, also, in what light the different dispositions of the Indians to emigrate to the West, and to remain on their ancient patrimony, were considered. This treaty recites that application had been made to the United States, at a previous period, by a deputation of the Cherokees, [on the 9th January, 1809,] by which they apprised the Government of the wish of a part of their nation to remove west of the Mississippi, and of the residue to abide in their old habitations. That the President of the United States, after maturely considering the subject, answered the petitions as follows: "The United States, *my children*, are the friends of both parties, and, as far as can be reasonably asked, they are willing to satisfy the wishes of both. *Those who remain* may be assured of our *patronage, our aid, and our good neighborhood.*" "To those who remove, every aid shall be administered, and when established at their new settlements, we shall still consider *them as our children, and always hold them firmly by the hand.*" The convention then establishes new boundaries,

and pledges our faith to respect and defend the Indian territories. Some matters, Mr. President, by universal consent, are taken as granted, without any explicit recognition. Under the influence of this rule of common fairness, how can we ever dispute the sovereign right of the Cherokees to remain east of the Mississippi, when it was in relation to that very location that we promised our patronage, aid and good neighborhood? Sir, is this high-handed encroachment of Georgia to be the commentary upon the national pledge here given, and the obvious import of these terms? How were these people to remain, if not as they then existed, and as we then acknowledged them to be, a distinct and separate community, governed by their own peculiar laws and customs? We can never deny these principles, while fair dealing retains any hold of our conduct. Further, Sir, it appears from this treaty, that the Indians who preferred to remain east of the river, expressed 'to the President an anxious desire to engage *in the pursuits of agriculture and civilized life in the country they then occupied,*' and we engaged to encourage those laudable purposes. Indeed, such pursuits had been recommended to the tribes, and patronized by the United States, for many years before this convention. Mr. Jefferson, in his message to Congress as early as 1805, and when on the subject of our Indian relations, with his usual enlarged views of public policy, observes, "The aboriginal inhabitants of these countries, I have regarded with the commiseration their history inspires. Endowed with the faculties and the *rights of men*, breathing an ardent love of *liberty and independence*, and occupying a country which left them *no desire but to be undisturbed*, the stream of overflowing population from other regions directed itself on these shores. Without power to divert, or habits to contend against it, they have been *overwhelmed by the current or driven before it*. Now reduced within limits too narrow for the hunter state, humanity enjoins us to teach them agriculture and the domestic arts; to encourage them to that industry which alone can enable them to maintain their place in existence; and to prepare them in time for that society which, to bodily comforts, adds the improvement of the mind and morals. We have, therefore, liberally furnished them with the implements of husbandry, and household use; we have placed among them instructors in the arts of first necessity; and they are *covered with the ægis of the law against aggressors from among ourselves.*" These, Sir, are sentiments worthy of an illustrious statesman. None can fail to perceive the spirit of justice and humanity which Mr. Jefferson cherished towards our Indian allies. He was, through his whole life, the firm unshrinking advocates of their rights, a patron of all their plans for moral improvement and elevation.

Mr. President, it will not be necessary to pursue the details of our treaty negotiations further. I beg leave to state, before I leave them, however, that with all the Southwestern tribes of Indians we have similar treaties. Not only the Cherokees, but the Creeks, Choctaws and Chickasaws, in the neighborhood of Georgia, Tennessee, Alabama and Mississippi, hold our faith, repeatedly pledged to them, that we would respect their boundaries, repel aggressions, and protect and nourish them as our neighbors and friends: and to all these public and sacred compacts, Georgia was a constant party. They were required, by an article never omitted, to be submitted to the Senate of the United States for their advice and consent. They were so submitted: and Georgia, by her

able representatives in the Senate, united in the ratification of these same treaties, without, in any single instance, raising an exception, or interposing a constitutional difficulty or scruple.

Other branches of our political history shed abundant light upon this momentous question. When the Congress of the United States directed their cares to the future settlement and government of the vast and noble domains to the Northwest of the River Ohio, ceded by the State of Virginia, among other matters which they deemed to be vitally connected with the welfare of that region, was the condition and preservation of the Indian Nations. The third article of their celebrated ordinance, for the government of the Northwestern Territory, is in the following words: "Religion, morality and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The *utmost good faith* shall always be observed towards the Indians; their *lands and property* shall never be taken from them *without their consent*; and, in their *property, rights and liberty*, they never shall be *invaded or disturbed*, unless in *just and lawful wars, authorized by Congress*; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them." Sir, the more minutely we look into the proceedings of the Congress of 1787, the more deeply shall we venerate the wisdom and virtue, the largeness of views, and the political forecast, that blessed and illustrated the councils of our country. This solitary article would forever stand out, and alone sustain their reputation. We shall presently learn what concern was manifested by the State of Georgia, to spread the whole influence and control of this article over the cession which she made to the Union, of the territory now composing the States of Alabama and Mississippi.

How can Georgia, after all this, desire or attempt, and how can we quietly permit her, "to invade and disturb the property, rights and liberty of the Indians?" And this, not only *not* "in just and lawful wars authorized by Congress," but in a time of profound peace, while the Cherokee lives in tranquil prosperity by her side. I press on the inquiry—How can we tamely suffer these States to make laws, not only not "founded in justice and humanity," "for preventing wrongs being done to the Indians," but for the avowed purpose of inflicting the gross and wanton injustice of breaking up their governments—of abrogating their long cherished customs, and of annihilating their existence as a distinct people?

The Congress of the United States, in 1799, in an act to regulate trade and intercourse with the Indian tribes; and again, by a similar act in 1802, still in force, distinctly recognised every material stipulation contained in the numerous treaties with the Indians. In fact, Sir, these acts of legislation were passed expressly to effectuate our treaty stipulations.

These statutes refer to "*the boundaries, as established by treaties, between the United States and the various Indian tribes;*" they next direct such "*lines to be clearly ascertained, and distinctly marked*"—prohibit any citizen of the United States from crossing these lines, to hunt or settle, and authorize the employment of the public and *military force* of the Government, to prevent intrusion, and to expel trespassers upon Indian lands. The twelfth section of this important law most wisely guards

the great object of Indian title from all public and private imposition, by enacting "that no purchase, grant, lease or other conveyance of lands, or of any title or claim thereto, from any Indian or nation, or tribe of Indians, *within the bounds of the United States*, shall be of any validity in law or equity, unless the same be made *by treaty or convention*, entered into *pursuant to the Constitution*."

I trust, Sir, that this brief exposition of our policy, in relation to Indian affairs, establishes, beyond all controversy, the obligation of the United States to protect these tribes, in the exercise and enjoyment of their civil and political rights. Sir, the question has ceased to be—*What are our duties?* An inquiry much more embarrassing is forced upon us: How shall we most plausibly, and with the least possible *violence*, *break our faith?* Sir, we repel the inquiry—we reject such an issue—and point the guardians of public honor to the broad, plain faith of faithful performance, and to which they are equally urged by duty and by interest.

Here I might properly rest—as the United States are the only party that the Indians are bound to regard. But if further proofs be wanting to convince us of the unwarrantable pretensions of Georgia, in her late violent legislation, they are at hand, cogent, clear and overwhelming. This State, Sir, was not only a party to all these conventions with the General Government; she made as solemn treaties with the Creeks and Cherokees for herself, when a colony, and after she became a State. These form a part of her title—and are bound up with her public laws. On the first of June, A. D. 1773, she negotiated a treaty with these Indian nations, by the joint agency of the Governor of the Colony and the Superintendent of Indian Affairs; in which boundaries are established and cessions of land agreed upon. Again, on the 31st May, A. D. 1783, after her Independence as a State, another treaty was concluded between the Governor of Georgia and five of her most distinguished citizens duly appointed by the Legislature of the State of the one part, and the Chiefs, Headmen and Warriors of the hordes or tribes of the Cherokee Indians, "*in behalf of the said nation*, on the other part." And in the first article of this convention, the distinct, independent existence of the Cherokees is acknowledged: For it provides, "that all differences between the said parties, heretofore subsisting, shall cease and be forgotten." Is it not utterly fallacious to contend, in the face of this treaty, that the Cherokees are under the jurisdiction of a State, that finds it necessary to negotiate for peace with them by all the forms of a regular treaty? But more than this—by the last article of this treaty, the Cherokees agree to cede; grant, release and quit claim to Georgia, all the lands *up to a certain boundary line* defined in the said document: And until since the extraordinary usurpation of this State, in extending her laws over this nation, these treaty lines were respected, and never disputed.

In the year 1777, the States of Georgia and South Carolina met the Creek and Cherokee nations at Dewitt's Corner, for the avowed purpose of making a treaty of peace with them. Sir, if the greatest potentate of Europe had been a party, the preliminaries could not have been more formal or solemn. First, are produced what are denominated "the Georgia full powers" delegated to her commissioners, to meet "the Indian Congress" to be held at Dewitt's Corner—next appear "the South Carolina full powers," for the like purpose—and lastly, the Creek and Cherokee "full powers." These powers are opened and exchanged at

this Congress, and a treaty is agreed upon by the plenipotentiaries, establishing peace, and the future boundaries between their respective territories.

In many of the treaties made by the United States with the Cherokees and Creeks, large sections of land were relinquished to us, which by our compact with the State of Georgia, we received for her use. She never questioned, at those times, our right to treat for those lands, nor the Indian's right of granting them; but gladly availed herself of such rich accessions to her domains, and proceeded very promptly to distribute them amongst her citizens. Now, it is a fundamental maxim in all codes of law which acknowledge the obligations of equity and good conscience, that if a party is silent when these old fashioned rules of upright dealing require him to speak, he shall forever thereafter hold his peace. The application of this sound and wholesome rule will instantly strike the moral apprehensions of every member of the Senate.

I am indebted to the State of Georgia for a clear and very satisfactory exposition of the nature of Indian treaties, and the obligations that arise from them. It is an authority for positions, which I have had the honor to maintain, of the greater weight, as it proceeds from the highest functionary of her Government. In February, 1825, the Creeks, by a treaty made with the United States, ceded all their lands to us within the geographical limits of Georgia, for the use of that State. By an article in the treaty, it was provided that the United States should protect the Indians against the encroachments, hostilities and impositions of the whites, &c. &c. until the removal of the Indians should have been accomplished according to the terms of the treaty. The Governor of Georgia, on the 22d day of March, of the same year, issued his proclamation, as "Governor and Commander in Chief of the Army and Navy of the said State, and of the Militia thereof," in which, after stating the conclusion of the treaty already mentioned, and the article in it for the protection of the Creeks, the Governor proceeds: "I have, therefore, thought proper to issue this, my proclamation, warning all persons, citizens of Georgia, or others, against trespassing or intruding upon lands occupied by the Indians within the limits of this State, either for the purpose of settlement or otherwise, as every such act will be *in direct violation* of the provisions of the treaty aforesaid, and will expose the aggressors to the most certain and summary punishment by the authorities of the State, and of the United States. All good citizens, therefore, pursuing the dictates of *good faith*, will unite in enforcing the *obligations of the treaty as the supreme law*," &c. [See Proclamation in Appendix.]

The Senate perceive that this Executive injunction founds its requirements, explicitly, upon the *faith* and authority of the treaty, as the *supreme law*; and this a treaty made with *Indians*. Yes, Sir, a treaty with a part of the very Indians now asserted by Georgia to be below the reach of treaties—poor objects! with whom it is declared to be ridiculous and idle to speak of treating!

Sir, she cannot recall her proclamation. Give these sacred doctrines their full operation here; let their influence prevail in the eventful issue now opened for our decision; and the Indians, who are involved in it, will be satisfied. They have approached us with no other plea; they urge no other or higher considerations. They point us to the faith of

treaties, and implore us by the constitutional obligation of these national compacts, to raise around our ancient allies the effective defences which we have so often promised to maintain. Carry out these rules of public duty, and the Cherokee delegation, who have been waiting at your doors with anxious interest, will return to their home relieved from the burden that now sinks their spirits, and with the grateful conviction that the successors of Washington are still true to his memory.

Mr. President: What could have wrought this entire revolution in opinions, and in three short years? Our relations with the Indians have not changed. Condition and circumstance, claim and obligation, remain precisely the same. And yet, now we hear that these Indians have been for all the time, since Georgia had existence, a component part of her population; within the full scope of her jurisdiction and sovereignty, and subject to the control of her laws!

The People of this country will never acquiesce in such violent constructions. They will read for themselves; and when they shall learn the history of all our intercourse with these nations; when they shall perceive the guaranties so often renewed to them, and under what solemn sanctions, the American community will not seek the aids of artificial speculations on the requisite formalities to a technical treaty. No, Sir. I repeat it: *They will judge for themselves*, and proclaim, in language that the remotest limit of this Republic will understand—"call these sacred pledges of a nation's faith by what name you please—*our word has been given, and we should live and die by our word.*"

If the State of Georgia is concluded, and morally bound to stay her hand from invading the lands or the government of the Indians, the States of Mississippi and Alabama are equally and more strongly obliged. They came into the Union after most of the treaties had been made. The former in 1816; and the latter in 1819. These obligations were liens upon the confederacy, and they must take the benefits with the burdens of the Union. They cannot complain of concealment or surprise. These conventions were all public and notorious; and the Indians under their daily view, in actual separate possession, exercising the rights of sovereignty and property.

Moreover, we have heard much of *constitutional* powers and disabilities in this debate. Sir, I proceed to demonstrate that both Mississippi and Alabama are, by a fundamental inhibition in the constitution of their government, prevented from extending their laws over the Indians.—When Georgia, in 1802, granted to the United States the territory that composes the greater part of these two States, she made it an express condition of the cession, that the States to be formed of it should conform to all the articles of "the ordinance for the government of the territory northwest of the Ohio," excepting one single article prohibiting involuntary servitude. When these States applied to the General Government to be formed into Territories, this eventful condition of the Georgia cession was remembered by all parties. Mississippi and Alabama in the most deliberate manner agreed to the condition, and assumed the articles of the ordinance as an integral part of their political condition. When they afterwards proposed to us to be received into the Federal Union, acts of Congress were duly passed authorizing them respectively to form a constitution and State government for the people within their territories, with this proviso—"That the same, when formed, shall be repub-

an investigation of this pretence. It will be found as void of support in fact, as the other assumptions are of principle.

It is alleged that the Indians cannot flourish in the neighborhood of a white population—that whole tribes have disappeared under the influence of this propinquity. As an abstract proposition, it implies reproach somewhere. Our virtues certainly have not such deadly and depopulating power. It must, then, be our vices that possess these destructive energies—and shall we commit injustice, and put in, as our plea for it, that our intercourse with the Indians has been so demoralizing that we must drive them from it, to save them? True, Sir, many tribes have melted away—they have sunk lower and lower—and what people could rise from a condition to which policy, selfishness, and cupidity, conspired to depress them?

Sir, had we devoted the same care to elevate their moral condition, that we have to degrade them, the removal of the Indians would not now seek for an apology in the suggestions of humanity. But I waive this, and, as to the matter of fact, how stands the account? Wherever a fair experiment has been made, the Indians have readily yielded to the influences of moral cultivation. Yes, Sir, they flourish under this culture, and rise in the scale of being. They have shown themselves to be highly susceptible of improvement, and the ferocious feelings and habits of the savage are soothed and reformed by the mild charities of religion. They can very soon be taught to understand and appreciate the blessings of civilization and regular government. And I have the opinions of some of our most enlightened statesmen to sustain me. Mr. Jefferson, nearly thirty years ago, congratulates his fellow citizens upon the hopeful indications furnished by the laudable efforts of the government to meliorate the condition of those he was pleased to denominate “our Indian neighbors.” In his message to Congress on the 8th of December, 1801, he states, “among our Indian neighbors, also, a spirit of peace and friendship generally prevails; and I am happy to inform you that the continued efforts to introduce among them the implements and the practice of husbandry, and of the household arts, have not been without success. That they are becoming more and more sensible of the superiority of this dependence for clothing and subsistence over the precarious resources of hunting and fishing. And already are we able to announce that, instead of that constant diminution of numbers produced by their wars and their wants, some of *them begin to experience an increase of population.*” Upon the authority of this great statesman, I can direct our Government to a much more effective, as well as more just and honorable remedy for the evils that afflict these tribes, than their proposed removal into the wild uncultivated regions of the western forests. In a message to Congress on the 17th October, 1803, Mr. Jefferson remarks, “with many of the other Indian tribes, improvements *in agriculture and household manufacture are advancing*, and with all our peace and friendship are established on grounds much firmer than heretofore.” In his message of the 2d December, 1806, there is a paragraph devoted to this subject deserving of our most respectful consideration. The friends of Indian rights could not desire the aid of better sentiments than Mr. Jefferson inculcated in that part of the message where he says “we continue to receive proofs of the growing attachment of our Indian neighbors; and of their disposition to place all their interests under the

patronage of the United States. These dispositions are inspired by *their confidence in our justice*, and in the sincere concern we feel for their welfare. And as long as we discharge these high and honorable functions with the integrity and good faith which alone can entitle us to their continuance, we may expect to reap the just reward in their peace and friendship." Again, in November, 1808, he informs the Congress that "with our Indian neighbors the public peace has been steadily maintained; and generally, from a conviction that we consider them as a part of ourselves, and cherish with sincerity their rights and interests, the attachment of the Indian tribes is gaining strength daily, is extending from the nearer to the more remote, and will amply requite us for the justice and friendship practised towards them. Husbandry and household manufacture are advancing among them—more rapidly with the Southern than Northern tribes, from circumstances of soil and climate."

Mr. Madison, in his message of November, 1809, likewise bears his public testimony to the gradual improvement of the Indians. "With our Indian neighbors," he remarks, "the just and benevolent system continued toward them, has also preserved peace, and is *more and more advancing habits favorable to their civilization and happiness.*" I will detain the Senate with but one more testimonial, from another venerable Chief Magistrate. Mr. Monroe, as lately as 1824, in his message, with great satisfaction informed the Congress that the Indians were "making steady advances in civilization and the improvement of their condition." "Many of the tribes," he continues, "have already *made great progress* in the arts of civilized life. This desirable result has been brought about by the humane and persevering policy of the Government, and particularly by means of the appropriation for the civilization of the Indians. There have been established, under the provisions of this act, thirty two schools containing nine hundred and sixteen scholars, who are well instructed in several branches of literature, and likewise in agriculture and the ordinary arts of life."

Now, Sir, when we consider the large space which these illustrious men have filled in our councils, and the perfect confidence that is due to their official statements, is it not astonishing to hear it gravely maintained that the Indians are retrograding in their condition and character—that all our public anxieties and cares bestowed upon them have been utterly fruitless, and that for very pity's sake we must get rid of them, or they will perish on our hands? Sir, I believe that the confidence of the Senate has been abused by some of the letter writers who give us such sad accounts of Indian wretchedness. I rejoice that we may safely repose upon the statements contained in the letters of Messrs. J. L. Allen, R. M. Livingston, Rev. Cyrus Kingsbury, and the Rev. Samuel A. Worcester. [See their letters in the Appendix.] The character of these witnesses is without reproach, and their satisfactory certificates of the improvement of the tribes continue and confirm the history furnished to us in the several messages from which I have just read extracts.

It is further maintained "that one of the greatest evils to which the Indians are exposed, is that incessant pressure of population, that forces them from seat to seat, without allowing time for moral and intellectual improvement." Sir, this is the very reason—the deep, cogent reason, which I present to the Senate, now to raise the barrier against the pressure of population, and with all the authority of this nation, command

an investigation of this pretence. It will be found as void of support in fact, as the other assumptions are of principle.

It is alleged that the Indians cannot flourish in the neighborhood of a white population—that whole tribes have disappeared under the influence of this propinquity. As an abstract proposition, it implies reproach somewhere. Our virtues certainly have not such deadly and depopulating power. It must, then, be our vices that possess these destructive energies—and shall we commit injustice, and put in, as our plea for it, that our intercourse with the Indians has been so demoralizing that we must drive them from it, to save them? True, Sir, many tribes have melted away—they have sunk lower and lower—and what people could rise from a condition to which policy, selfishness, and cupidity, conspired to depress them?

Sir, had we devoted the same care to elevate their moral condition, that we have to degrade them, the removal of the Indians would not now seek for an apology in the suggestions of humanity. But I waive this, and, as to the matter of fact, how stands the account? Wherever a fair experiment has been made, the Indians have readily yielded to the influences of moral cultivation. Yes, Sir, they flourish under this culture, and rise in the scale of being. They have shown themselves to be highly susceptible of improvement, and the ferocious feelings and habits of the savage are soothed and reformed by the mild charities of religion. They can very soon be taught to understand and appreciate the blessings of civilization and regular government. And I have the opinions of some of our most enlightened statesmen to sustain me. Mr. Jefferson, nearly thirty years ago, congratulates his fellow citizens upon the hopeful indications furnished by the laudable efforts of the government to meliorate the condition of those he was pleased to denominate “our Indian neighbors.” In his message to Congress on the 8th of December, 1801, he states, “among our Indian neighbors, also, a spirit of peace and friendship generally prevails; and I am happy to inform you that the continued efforts to introduce among them the implements and the practice of husbandry, and of the household arts, have not been without success. That they are becoming more and more sensible of the superiority of this dependence for clothing and subsistence over the precarious resources of hunting and fishing. And already are we able to announce that, instead of that constant diminution of numbers produced by their wars and their wants, some of *them begin to experience an increase of population.*” Upon the authority of this great statesman, I can direct our Government to a much more effective, as well as more just and honorable remedy for the evils that afflict these tribes, than their proposed removal into the wild uncultivated regions of the western forests. In a message to Congress on the 17th October, 1803, Mr. Jefferson remarks, “with many of the other Indian tribes, improvements *in agriculture and household manufacture are advancing*, and with all our peace and friendship are established on grounds much firmer than heretofore.” In his message of the 2d December, 1806, there is a paragraph devoted to this subject deserving of our most respectful consideration. The friends of Indian rights could not desire the aid of better sentiments than Mr. Jefferson inculcated in that part of the message where he says “we continue to receive proofs of the growing attachment of our Indian neighbors; and of their disposition to place all their interests under the

patronage of the United States. These dispositions are inspired by *their confidence in our justice*, and in the sincere concern we feel for their welfare. And as long as we discharge these high and honorable functions with the integrity and good faith which alone can entitle us to their continuance, we may expect to reap the just reward in their peace and friendship." Again, in November, 1808, he informs the Congress that "with our Indian neighbors the public peace has been steadily maintained; and generally, from a conviction that we consider them as a part of ourselves, and cherish with sincerity their rights and interests, the attachment of the Indian tribes is gaining strength daily, is extending from the nearer to the more remote, and will amply requite us for the justice and friendship practised towards them. Husbandry and household manufacture are advancing among them—more rapidly with the Southern than Northern tribes, from circumstances of soil and climate."

Mr. Madison, in his message of November, 1809, likewise bears his public testimony to the gradual improvement of the Indians. "With our Indian neighbors," he remarks, "the just and benevolent system continued toward them, has also preserved peace, and is *more and more advancing habits favorable to their civilization and happiness.*" I will detain the Senate with but one more testimonial, from another venerable Chief Magistrate. Mr. Monroe, as lately as 1824, in his message, with great satisfaction informed the Congress that the Indians were "making steady advances in civilization and the improvement of their condition." "Many of the tribes," he continues, "have already *made great progress* in the arts of civilized life. This desirable result has been brought about by the humane and persevering policy of the Government, and particularly by means of the appropriation for the civilization of the Indians. There have been established, under the provisions of this act, thirty two schools containing nine hundred and sixteen scholars, who are well instructed in several branches of literature, and likewise in agriculture and the ordinary arts of life."

Now, Sir, when we consider the large space which these illustrious men have filled in our councils, and the perfect confidence that is due to their official statements, is it not astonishing to hear it gravely maintained that the Indians are retrograding in their condition and character—that all our public anxieties and cares bestowed upon them have been utterly fruitless, and that for very pity's sake we must get rid of them, or they will perish on our hands? Sir, I believe that the confidence of the Senate has been abused by some of the letter writers who give us such sad accounts of Indian wretchedness. I rejoice that we may safely repose upon the statements contained in the letters of Messrs. J. L. Allen, R. M. Livingston, Rev. Cyrus Kingsbury, and the Rev. Samuel A. Worcester. [See their letters in the Appendix.] The character of these witnesses is without reproach, and their satisfactory certificates of the improvement of the tribes continue and confirm the history furnished to us in the several messages from which I have just read extracts.

It is further maintained "that one of the greatest evils to which the Indians are exposed, is that incessant pressure of population, that forces them from seat to seat, without allowing time for moral and intellectual improvement." Sir, this is the very reason—the deep, cogent reason, which I present to the Senate, now to raise the barrier against the pressure of population, and with all the authority of this nation, command

the urging tide "thus far and no farther." Let us save them now, or we never shall. For is it not clear as the sunbeam, Sir, that a removal will aggravate their woes? If the tide is nearly irresistible at this time; when a few more years shall fill the regions beyond the Arkansas with many more millions of enterprising white men, will not an increased impulse be given, that shall sweep the red men away into the barren prairies, or the Pacific of the West? Such, I fear, will be their doom.

If these constant removals are so afflictive, and allow no time for moral improvement—if this be the cause why the attempts at Indian reformation are alleged to have been so unavailing—do not the dictates of experience then plead most powerfully with us, to drive them no further—to grant them an abiding place, when these moral causes may have a fair and uninterrupted operation in moulding and refining the Indian character? And, Sir, weigh a moment the considerations that address us on behalf of the Cherokees, especially. Prompted and encouraged by our counsels, they have in good earnest resolved to become men, rational, educated; christian men; and they have succeeded beyond our most sanguine hopes. They have established a regular constitution of civil government, republican in its principles. Wise and beneficent laws are enacted. The people acknowledge their authority, and feel their obligation. A printing press, conducted by one of the nation, circulates a weekly newspaper, printed partly in English, and partly in the Cherokee language. Schools flourish in many of their settlements. Christian temples, to the God of the Bible, are frequented by respectful, devout, and many sincere worshippers. God, as we believe, has many people among them, whom he regards as the "apple of his eye." They have become better neighbors to Georgia. She made no complaints during the lapse of fifty years, when the tribes were a horde of ruthless, licentious and drunken savages; when no law controlled them, when the only judge was their will, and their avenger the tomahawk.

Then Georgia could make treaties with them, and acknowledge them as nations; and in conventions trace boundary lines, and respect the land-marks of her neighbor: and now, when they begin to reap the fruits of all the paternal instructions, so repeatedly and earnestly delivered to them by the Presidents—when the Cherokee has learned to respect the rights of the white man, and sacredly to regard the obligations of truth and conscience—is this the time, Sir, to break up this peaceful community, to put out their council fires, to annul their laws and customs, to crush the rising hopes of their youth, and to drive the desponding and discouraged Indian to despair? Let it be called a sickly humanity—every freeman in the land, that has one spark of the spirit of his fathers, will feel and denounce it to be an unparalleled stretch of cruel injustice. And if the deed be done, Sir, how it is regarded in Heaven will, sooner or later, be known on Earth; for this is the judgment place of public sins. And all these ties are to be broken asunder, for a State that was silent and acquiesced in the relations of the Indians to our present government—that pretended to no right of direct interference whilst these tribes were really dangerous; when their ferocious incursions justly disturbed the tranquillity of the fireside, and waked the "sleep of the cradle;" for a State that seeks it now against an unoffending neighbor, which implores her by all that is dear in the graves of her fathers; in the traditions of by gone ages; that beseeches her by

the ties of nature, of home, and of country, to let her live unmolested, and die near the dust of her kindred!

Sir, our fears have been addressed in behalf of those States whose legislation we resist: and it is enquired with solicitude, would you urge us to arms with Georgia? No, Sir. This tremendous alternative will not be necessary. Let the General Government come out, as it should, with decided and temperate firmness, and officially announce to Georgia, and the other States, that if the Indian tribes choose to remain, they will be protected against all interference and encroachment; and such is my confidence in the sense of justice, in the respect for law, prevailing in the great body of this portion of our fellow citizens, that I believe they would submit to the authority of the nation. I can expect no other issue. But if the General Government be urged to the crisis, never to be anticipated, of appealing to the last resort of her powers; and when reason, argument, and persuasion fail, to raise her strong arm to repress the violations of the supreme law of the land, I ask, is it not in her bond, Sir? Is her guaranty a rope of sand? This effective weapon has often been employed to chastise the poor Indians, sometimes with dreadful vengeance I fear, and shall not their protection avail to draw it from the scabbard? Permit me to refer the Senate to the views of Mr. Jefferson, directly connected with this delicate, yet sacred duty of protection. In 1791, when he was Secretary of State, there were some symptoms of collision on the Indian subject. This induced the letter from him to General Knox, then our Secretary of War, a part of which I will read: "I am of opinion, that Government *should firmly* maintain this ground; that the Indians have a right to the *occupation of their lands, independent* of the States within whose *chartered limits* they happen to be; that until they *cede them by treaty*, or other transaction equivalent to a treaty, no act of a State can give a right to such lands; that neither under the present constitution, nor the ancient confederation, had any State or persons a right to treat with the Indians, without the consent of the General Government; that that consent has never been given by any treaty for the cession of the lands in question; that the Government is determined to exert all *its energy* for the patronage and protection of the rights of the Indians, and the preservation of peace between the United States and them; and that if any settlements are made on lands not *ceded by them*, without the previous consent of the United States, the Government will think itself bound, not only to declare to the Indians that such settlements are without the authority or protection of the United States, but to *remove them also by public force.*"

Mr. Jefferson seems to have been disturbed by no morbid sensibilities. He speaks out as became a determined statesman. We can trace in this document the same spirit which shed its influence on a more eventful paper—the declaration of our rights, and of our purpose to maintain and defend them. He looked right onward, in the broad path of public duty; and if, in his way, he met the terrors of State collision and conflict, he was in no degree intimidated. The faith of treaties was his guide; and he would not flinch in his purposes, nor surrender the Indians to State encroachments. Let such decided policy go forth in the majesty of our laws now, and, Sir, Georgia will yield. She will never encounter the responsibilities or the horrors of a civil war. But if she should, no stains of blood will be on our skirts—on herself the guilt will abide forever.

Mr. President, if we abandon these aboriginal proprietors of our soil—these early allies and adopted children of our forefathers, how shall we justify it to our country? to all the glory of the past, and the promise of the future? Her *good name* is worth all else besides that contributes to her greatness. And, as I regard this crisis in her history, the time has come when this unbought treasure shall be plucked from dishonor, or abandoned to reproach.

How shall we justify this trespass to ourselves? Sir, we may deride it, and laugh it to scorn now; but the occasion *will* meet every man, when he *must* look inward, and make honest inquisition there. Let us beware how, by oppressive encroachments upon the sacred privileges of our Indian neighbors, we minister to the agonies of future remorse.

I have, in my humble measure, attempted to discharge a public and most solemn duty towards an interesting portion of my fellow men. Should it prove to have been as fruitless as I know it to be below the weight of their claims, yet even then, Sir, it will have its consolations. Defeat in such a cause is far above the triumphs of unrighteous power—and in the language of an eloquent writer—“I had rather receive the blessing of one poor Cherokee, as he casts his last look back upon his country, for having, though in vain, attempted to prevent his banishment, than to sleep beneath the marble of all the Cæsars.”

APPENDIX.



A PROCLAMATION.

GEORGIA.—By His Excellency George M. Troup, Governor and Commander-in-Chief of the Army and Navy of this State, and of the Militia thereof.

Whereas, by a treaty concluded with the Creeks at the Indian Springs, on the 12th day of February last, their claims to the whole territory within the limits of Georgia were ceded to the United States, and the ratification of the same, by the President and Senate, having been made known to me; by which act the territory aforesaid, according to the stipulations of the treaty and of the articles of agreement and cession in the year 1802, will, on or before the first day of September, 1826, pass into actual possession of the State of Georgia :

And whereas, it is provided in said treaty, that the United States shall protect the Indians against the encroachments, hostilities, and impositions of the whites, so that they suffer no interruption, molestation or injury, in their persons, goods, effects, their dwellings or the lands they occupy, until their removal shall have been accomplished, according to the terms of the treaty.

I have, therefore, thought proper to issue this my Proclamation, warning all persons, citizens of Georgia, or others, against trespassing or intruding upon the lands occupied by the Indians within the limits of this State, either for the purpose of settlement or otherwise, as every such act will be in direct violation of the provisions of the treaty aforesaid, and will expose the aggressors to the most certain and summary punishment by the authorities of the State and of the United States.

All good citizens, therefore, pursuing the dictates of good faith, will unite in enforcing the obligations of the treaty as the supreme law, aiding and assisting the magistracy in repressing and punishing any disorder or violence which may infringe its provisions; and all officers, civil and military, are commanded to be vigilant in preventing offences under it, and in detecting and punishing offenders.

Given under my hand, and the great seal of the State, at the State House, in Milledgeville, this twenty-first day of March, in the year of our Lord eighteen hundred and twenty-five, and of the forty-ninth year of the Independence of the United States of America.

G. M. TROUP.

By the Governor :

E. HAMILTON,

Secretary of State.

March 22.

1830.

Law of Georgia, taken from the "Georgia Journal," printed at Milledgeville, of Saturday, January 23d, 1830.

An act to add the Territory lying within the chartered limits of Georgia, and now in the occupancy of the Cherokee Indians, to the counties of Carroll, DeKalb, Gwinnett, Hall and Habersham, and to extend the laws of this State over the same, and to annul all laws and ordinances made by the Cherokee nation of Indians, and to provide for the compensation of officers serving legal process in said Territory, and to regulate the testimony of Indians, and to repeal the ninth section of the act of eighteen hundred and twenty eight upon this subject.

Be it enacted by the Senate and House of Representatives of the State of Georgia in General assembly met, and it is hereby enacted by the authority of the same, That, from and after the passing of this act, all that part of the unlocated territory within the limits of this State, and which lies between the Alabama line and the old path leading from the Buzzard Roost on the Chattahoochie to Sally Hughes' on the Hightower River, thence to Thomas Petet's, on the old Federal road, thence with said road to the Alabama line, be, and the same is hereby, added to, and shall become a part of, the county of Carroll.

Sec. 2. *And be it further enacted,* That all that part of said territory lying and being North of the last mentioned line, and South of the road running from Charles Gates' ferry on the Chattahoochie river to Dick Roe's, to where it intersects with the path aforesaid, be, and the same is hereby added to, and shall become a part of, the county of DeKalb.

Sec. 3. *And be it further enacted,* That all that part of said territory lying north of the last mentioned line, and south of a line commencing at the mouth of Baldrige's Creek; thence up said Creek to its source; from thence to where the Federal road crosses the Hightower; thence with said road to the Tennessee line, be, and the same is hereby added to, and shall become a part of, the county of Gwinnett.

Sec. 4. *And be it further enacted,* That all that part of said territory lying north of said last mentioned line, and south of a line to commence on the Chestatee river at the mouth of Yoholo creek; thence up said creek to the top of the Blue Ridge; thence to the head waters of Notley river; thence down said river to the boundary line of Georgia, be, and the same is hereby added to, and shall become a part of, the county of Hall.

Sec. 5. *And be it further enacted,* That all that part of said territory lying north of said last mentioned line, within the limits of this State, be, and the same is hereby added to, and that become a part of, the county of Habersham.

Sec. 6. *And be it further enacted,* That all the laws, both civil and criminal, of this State, be, and the same are hereby, extended over said portions of territory, respectively; and all persons whatever residing within the same, shall, after the first day of June next, be subject and liable to the operation of said laws, in the same manner as other citizens of this State or the citizens of said counties, respectively; and all writs and processes whatever, issued by the courts, or officers of said courts, shall extend

over, and operate on, the portions of territory hereby added to the same, respectively.

Sec. 7. *And be it further enacted*, That, after the first day of June next, all laws, ordinances, orders and regulations, of any kind whatever; made, passed or enacted, by the Cherokee Indians, either in general council or in any other way whatever, or by any authority whatever, of said tribe, be, and the same are hereby declared to be null and void, and of no effect, as if the same *had never existed*; and in all cases of indictment, or civil suits, it shall not be lawful for the defendant to justify under any of said laws, ordinances, orders or regulations; nor shall the courts of this State permit the same to be given in evidence on the trial of any suit whatever.

Sec. 8. *And be it further enacted*, That it shall not be lawful for any person or body of persons, by arbitrary power or by virtue of any pretended rule, ordinance, law or custom, of said Cherokee nation, to prevent, by threats, menaces, or *other means*, to endeavor to prevent any Indian of said nation, residing within the chartered limits of this State; from enrolling as an emigrant, or actually emigrating, or removing from said nation; nor shall it be lawful for any person or body of persons, by arbitrary power, or by virtue of any pretended rule, ordinance, law or custom, of said nation, to punish in any manner, or to molest either the person or property, or to abridge the rights or privileges of any Indian for enrolling his or her name as an emigrant, or for emigrating, or intending to emigrate, from said nation.

Sec. 9. *And be it further enacted*, That any person or body of persons offending against the provisions of the foregoing section, shall be guilty of a high misdemeanor, subject to indictment, and, on conviction, shall be punished by confinement in the common gaol of any county of this State, or by confinement at hard labor in the penitentiary, for a term not exceeding *four years*, at the discretion of the court.

Sec. 10. *And be it further enacted*, That it shall not be lawful for any person or body of persons, by arbitrary power, or under color of any pretended rule, ordinance, law, or custom, of said nation, to prevent, or offer to prevent or deter any Indian, head man, chief, or warrior, of said nation, residing within the chartered limits of this State, from selling or ceding to the United States, for the use of the State of Georgia, the whole or any part of said territory, or to prevent, or offer to prevent, any Indian, head man, chief or warrior, of said nation, residing as aforesaid, from meeting in council, or treaty, any commissioner or commissioners on the part of the United States, for any purpose whatever.

Sec. 11. *And be it further enacted*, That any person or body of persons offending against the provisions of the foregoing section, shall be guilty of a high misdemeanor, subject to indictment, and, on conviction, shall be confined at hard labor in the penitentiary, for not less than four, nor longer than six years, at the discretion of the court.

Sec. 12. *And be it further enacted*, That it shall not be lawful for any person or body of persons, by arbitrary force, or under color of any pretended rules, ordinances, law or custom, of said nation, to take the life of any Indian residing as aforesaid, for enlisting as an emigrant, attempting to emigrate, ceding, or attempting to cede, as aforesaid, the whole or any part of said territory, or meeting, or attempting to meet, in treaty or in council, as aforesaid, any commissioner or commissioners as aforesaid;

and any person or body of persons offending against the provisions of this section, shall be guilty of murder, subject to indictment, and, on conviction, shall suffer death by hanging.

Sec. 13. *And be it further enacted,* That, should any of the foregoing offences be committed under color of any pretended rules, ordinance, custom or law, of said nation, all persons acting therein, either as individuals or as pretended *executive, ministerial, or judicial officers*, shall be deemed and considered as principals, and subject to the pains and penalties hereinbefore prescribed.

Sec. 14. *And be it further enacted,* That, for all demands which may come within the jurisdiction of a magistrate's court, suit may be brought for the same in the nearest district of the county to which the territory is hereby annexed; and all officers serving any legal process on any person living on any portion of the territory herein named, shall be entitled to receive the sum of five cents for every mile he may ride to serve the same, after crossing the present limits of said counties, in addition to the fees already allowed by law; and in case any of said officers should be resisted in the execution of any legal process issued by any court or magistrate, justice of the Inferior Court, or Judge of the Superior Court of any of said counties, he is hereby authorized to call out a sufficient number of the militia of said counties to aid and protect him in the execution of his duty.

Sec. 15. *And be it further enacted,* That no Indian or descendant of any Indian, residing within the Creek or Cherokee nations of Indians, shall be deemed a competent witness in any court of this State, to which a white person may be a party, except such white person resides within the said nation.

WARREN JOURDAN,
Speaker of the House of Representatives.
THOMAS STOCKS,
President of the Senate.

Assented to, Dec. 19, 1829.

GEORGE R. GILMER, Governor.

ALABAMA.

AN ACT to extend the jurisdiction of the State of Alabama over the Creek Nation.

[1829.]

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Alabama in General Assembly convened,* That all the territory within the following boundaries, to wit: Beginning on the bank of Coosa river, at the mouth of Kiamulga creek, and running thence with McIntosh's road to the Georgia line; thence, with the said line, northwardly to the boundary line between the Creek and Cherokee nations; thence, westwardly, with the said last named boundary, to the mouth of Will's creek, on Coosa; thence, down Coosa, to the beginning, shall be added to, and form a part of the county of St. Clair. And all the territory in the following boundaries, to wit: Beginning at the mouth

of Kiapulga, and running thence down the Coosa river to Fort Williams; thence, in a direct line, to Miller's bend, on the Chattahoochie; thence, with the boundary line between Alabama and Georgia, to where it crosses McIntosh's road; thence, with said road, to the beginning, shall be added to, and form a part of, the county of Shelby. And all the territory within the following boundaries, to wit: Beginning at Fort Williams, and running down Coosa river to Wetumpka Falls; thence, along the Indian boundary line, to the road leading from Pensacola to Kendall Lewis's old stand, on the Federal road; thence, along said road, to the Chattahoochie river; and all territory north of the aforesaid line, and not attached to any other county, shall belong to, and form a part of, the county of Montgomery; and all Indian territory lying south of the before described line, shall belong to, and form part of, the county of Pike.

Sec. 2. *And be it further enacted*, That the jurisdiction of the Circuit Courts of the above named counties be, and the same is hereby, extended over their respective limits, as established in the preceding section.

Sec. 3. *And be it further enacted*, That the jurisdiction of the Orphans' courts and courts of revenue of the above named counties, shall, after the first day of March, 1830, be extended over so much of their respective limits as now constitutes a part of the Creek nation.

Sec. 4. *And be it further enacted*, That it shall be the duty of the court of roads and revenue in the above counties, on the first Monday of July next, or shortly thereafter, to appoint a suitable person, whose duty it shall be to make an accurate census of the Indian population residing in his county, classing them into separate classes, to wit: Those under ten years, over ten and under twenty one, over twenty one and under forty five, and those over forty five, the males and females into separate columns, noting the number of mixed blood, and also the number of slaves owned by the Indian population, and make return thereof to the clerk of the county court of the county, respectively, and to the Secretary of State, as soon as practicable.

Sec. 5. *And be it further enacted*, That the person so appointed shall be entitled to three dollars a day, for the length of time that the court of revenue shall certify as necessary to perform said service; and that the same be a charge upon the State Treasury, subject to be reimbursed by such new counties as may hereafter be established out of the Creek Indian territory.

MISSISSIPPI.

[1830.]

AN ACT to extend the laws of the State of Mississippi over the persons and property of the Indians resident within its limits.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Mississippi in General Assembly convened*, That, from and after the passage of this act, all the rights, privileges, immunities and franchises held, claimed or enjoyed, by those persons called Indians, and their descendants, and which are held by virtue of any form

of policy, usage, or custom, existing among said persons, not particularly recognised and established by the common law, or statutes of the State of Mississippi, be, and the same are hereby, wholly abolished and taken away.

Sec. 2. *Be it further enacted*, That all the rights, privileges, immunities and franchises, held and enjoyed by free white persons, inhabitants of the said State, be, and the same are hereby, given, granted and extended to the said persons called Indians, and their descendants, in as full and ample a manner as the same can be done by act of the General Assembly.

Sec. 3. *Be it further enacted*, That all the laws, statutes and ordinances, now in force in the said State of Mississippi, be, and the same are hereby, declared to have full force, power, and operation, over the persons and property of and within the territory now occupied by the said Indians.

Sec. 4. *Be it further enacted*, That all marriages, matrimonial connexions or associations, entered into by virtue of any usage or custom of the said Indians, and by them deemed valid, be, and the same are hereby, declared to be as binding and obligatory as if the same had been solemnized according to the laws of this State.

Sec. 5. *Be it further enacted*, That any person or persons who shall assume on him or themselves, and exercise in any manner whatever, the office of Chief, Mingo, Head man, or other post of power established by the tribal statutes, ordinances, or customs of the said Indians, and not particularly recognised by the laws of this State, shall, on conviction upon indictment or presentment before a court of competent jurisdiction, be fined in any sum not exceeding one thousand dollars, and be imprisoned any time not exceeding twelve months, at the discretion of the court before whom conviction may be had.

Sec. 6. *Be it further enacted*, That the boundaries specified in an act entitled "An act to extend legal process into that part of the State now occupied by the Chickasaw and Choctaw tribes of Indians," passed February 4, 1829, shall be so construed as to make all legal process returnable as by that act required.

Extracts of a Letter from Mr. John L. Allen, Sub-Agent for Chickasaws, dated 7th February, 1830.

"In conformity with yours of the 29th January, to give the Department of War the information of which I may be in possession, touching the condition of the Indians within the Chickasaw agency.

They (the Chickasaws) have a plenty of horses of a superior quality, or at least well adapted to the use of Indians; they use them on their farms with much less food than is generally given those animals that are raised and used by the whites; and, when travelling through their country, they travel from thirty to fifty miles per day; never feed them, but let them subsist entirely upon what grass or cane they can procure for themselves when hobbled out at night.

They have large herds of cattle, swine, sheep, and goats, and poultry of every description that are in use generally, in that section of country.

The country is well watered, and is well adapted to the culture of cotton, corn, wheat, oats, peas, potatoes, beans, &c.

Cotton, beef, and pork, are the principal articles for exportation. There will be cotton exported from the nation this year, probably to the amount of 1,000 bales; beef and pork to no inconsiderable amount.

The proceeds from the sales of cotton, horses, beef, cattle, hogs, &c. after retaining a sufficiency for their home consumption, is generally applied to the purchase of necessaries and luxuries of life; to wit: slaves, sugar and coffee, as well as dry goods of various descriptions, which are calculated to render them comfortable, and ornament their persons.

The time has come when they no longer depend on the rifle for support, but it is used more for their recreation and amusement, than for the means of sustenance.

Every family cultivates the earth more or less, as his thirst for gain, or his imaginary or real wants increase.

Much to the honor of the Chickasaws, for the last eight years the practice of the men, requiring the women to perform all the labor in the fields, is much changed; the men now (with a few exceptions) cultivate the earth themselves, while the female part of the family is engaged in their household affairs. They spin, weave, make their own clothing, milk cows, make butter, cheese, &c. They keep themselves decent and clean, and, in many instances, particular attention is paid to fashions that are in use by the whites.

It is their constant practice to appear in their best apparel at their public meetings; also, when they visit the country villages in the white settlements.

Many of the Chickasaws profess Christianity. I attended a camp meeting in November last, at the missionaries; divine worship was performed alternately by white and red men, in the English and Indian languages; and, for the first time, I saw the sacrament taken by the Indians. Every thing was conducted with the utmost good order and decorum.

As a nation, the men are brave and honest. The women, (the half breeds in particular,) are beautiful and virtuous; and, I am of the opinion that there has been greater advancements in civilization, in the *last eight* years, than there was in *twenty* previous.

I think the present state of education does not meet the wishes or expectations of the chiefs and head men of the nation.

Education is confined generally to the half breeds and youths generally of the first promise. There are, at this time, several white men that have identified themselves with the Indians, by marriage, and several half breeds that have sufficient education to enable them to transact a considerable portion of the business for the nation.

The municipal laws of the Chickasaws consist in written laws or resolutions, commanding that which is right, and prohibiting that which they conceive to be wrong. Their laws are few, easily understood, and rigidly enforced, and are highly calculated to promote peace and good order among themselves.

As I have already mentioned the state of agriculture, I have only now to say something on the subject of the mechanic arts, the knowledge of which is generally confined to white men that have identified themselves with the Indians, particularly of the highest grade proposed among them:

to wit: house carpenters, wheelwrights, millwrights, blacksmiths, &c. All the arts necessary for farming use, stocking ploughs, helving axes, hoes, making slides, truck wheels, draw bars, gates, &c. are generally confined to the common Indians and slaves.

The Chickasaws being surrounded by the white inhabitants, I have found it a difficult matter to restrain the whites from violating the intercourse law, by driving their stock over the line upon the Indian land, making settlements, trading with the Indians in a manner that is prohibited by law, as well as stealing their negroes, horses, cattle, &c. ; but I am proud to have it in my power to say that those white persons who are so troublesome to the Indians, are generally men of the lowest grade and dregs of society. Such men as are always unwilling to conform to the laws that govern the civilized world.

They (the principal chiefs) stated that if the laws were extended over them, they had no belief that they would be placed upon an equal footing with the whites ; and, if they were made so by law, all the officers of the law would be composed of white men ; and, as they were unskilled in law suits, and the whites would be partial to each other, they had no belief that they would be able to withstand the encroachments of the whites upon them ; and, if they did attempt it, that in a few years they would not have a vestige of property left, consequently they would exchange their country for any they could get, rather than, as they conceive, lose their native freedom."

Extract of the Report of R. M. Livingston, Commissioner, of the 28th December, 1828, to the Secretary of War.

" I proceed to conclude this report by submitting a few observations as to *'their (the New York Indians) condition as a people, and whether advancing or deteriorating.'* Deprived of the advantage of a previous acquaintance with the tribe, or the state of their reservations, I am not enabled, from personal observation alone, to compare their condition, at this time, with any former period of their history. Information derived from sources entitled to credit, enable me to say that their population has not materially changed in the last fifteen years. Their females bear as many children as ours, but lose more of them in infancy ; seldom rearing to maturity more than two or three to a family. This excessive mortality, in comparison with human life in the purely savage or civilized state, is attributable to the middle station which those natives occupy on the scale of civilization ; to their having lost the hardihood and animation of the hunter state without having attained the ability to provide the comforts essential to health in their present more quiescent and supine condition. An uninterrupted supply of food, raiment, and bedding, medical aid, and indispensable comforts for mother and child, are, in too many instances, wanting. Their dwellings are substantial, but the interior (with some exceptions) present the appearances of poverty and uncleanness. Their advances in husbandry exceeded my expectations ; but they are illy supplied with indispensable farming utensils, and are deficient in both theory and practice ; their lands exhibiting that degree of cultivation which our people would term poor and sloven-

ly. Their cultivated fields do not produce sufficient to sustain their population; the deficiency is supplied by annuities, fish, and horses and cattle that browse the commons. A spirit of agricultural improvement, however, is pervading the nation, and may, in my opinion, be so excited and directed as to make that employment yield them a surplus; establishing at the same time wholesome habits, and elevating them to a higher grade of being. A spirit of emulation was manifested by the chiefs of the Tonnawanta reserve, courting a comparison of their advances in civilization with those of their opponents of the Buffalo reserve. I visited the Tonnawanta village, and (waiving the expression of preference as to buildings and agricultural improvements generally) observed, that Tonnawanta far exceeded Buffalo in the number, size, and condition of their cattle, but fell as far behind in another essential branch of civilization, the education of their children; the school at Buffalo containing from sixty to eighty scholars, that at Tonnawanta, by reason that Christianity had been not taught in the school, had dwindled to about ten or fifteen scholars, and they were obliged to obtain their instruction without the bounds of the reserve. As well at Tonnawanta as at Buffalo, the deistical party expressed a desire that the Quakers might instruct them and their children in husbandry, in learning, and in good habits. Of the moral feeling of the nation, their genius and mental powers, the flexibility and comprehension of their language, and of their diversified style in oratory, some estimate may be formed by their reported speeches and narrations translated by the assistance of several interpreters. I have scarcely firmness to suppress the expression of feelings excited by an examination of the school at Buffalo, and by witnessing, in the united religious exercise of a hundred and fifty of all ages and sexes, a germ of hope rising among the trodden down children of the forest. I leave the subject to be conceived by the hearts, and portrayed by the pens of the worthy patrons of the establishment. Of the school, I would merely observe, that I know of none in which children of equal age and opportunity possess greater aptitude to learning, or exhibit higher attainments; and if equal care shall be bestowed in translating for the adult, and in forwarding by judicious means every branch of civilization as essential to guard against a relapse, the succeeding generation will, in my opinion, appear as a new race of beings."

From the Rev. Cyrus Kingsbury to Thomas L. McKenney.

MAYHEW, 8th February, 1830.

THOMAS L. MCKENNEY, ESQ.

Office of Indian Affairs:

Sir: I take the liberty of transmitting to the War Department a few remarks and statements designed to show the progress which has been made by the Choctaws towards a state of civilization.

Such a statement will, I hope, be acceptable to the Government, and it is certainly due to the Choctaws, who have made such commendable exertions for their own improvement. In turning their attention to the arts of civilized life, to the education of their children, and to the precepts of the Gospel, they feel the satisfaction of having followed the advice of their great Father, the President, and of the Secretary of War,

often repeated both in written communications and by those who have spoken in their names.

I am aware that very different views are entertained of the improvements reported to have been made by some of the Indian tribes. Those who are not intimately acquainted with the Indians, and who form their estimate by comparing them with the citizens of our own highly favored country, will regard them as still in a very degraded and wretched condition.

Those who are better acquainted with them, and who are able to compare their *present state* with what it *formerly* was, must admit that a great advance has been made. Comparing the present condition of the Choctaws in those parts of the nation which have enjoyed the advantages of instruction, with what it was eight, or even five years ago, it may be doubted whether any considerable portions of the civilized world present specimens of equal improvement accomplished within the same space of time. In the statements which follow, I shall confine myself principally to facts, that the Department may be able to judge for themselves as to the correctness of the above remark. Eight years ago intemperance prevailed from one end of the land to the other. In the space of two months, ten Indians in this district alone lost their lives by whisky. At this time intemperance within the nation is hardly known.

In July, 1828, I attended the distribution of the annuity to two districts, on which occasion there were present from 4,000 to 5,000 Indians—men, women and children. They were together four days, and not an intoxicated one was seen, until after the business was closed. Some whisky had been secreted at a distance from the place, and, as the law prohibiting the introduction of it into that part of the nation was not to go into effect until fifteen days from that time, some, after leaving the place, obtained it, and became intoxicated. Since that time, I am not aware that whisky has been used at any council or collection of Indians, held by order of the chiefs for the transaction of business.

The Choctaws, however, have not all lost their appetite for whisky, nor is it supposed that a majority of them are restrained from intemperance by the force of moral principle; but so sensible had they become of the destructive effects of this vice, that a law prohibiting entirely the introduction of whisky into the nation, as an article of traffic, was proposed by the chiefs; and obtained an almost universal support in a general council of the warriors. There cannot be a question, that less ardent spirit is now used in the Choctaw nation, whether we consider the extent of territory, or the amount of population; than in any other part of the United States. It is only when we go to the borders of the surrounding settlements that we see Indians intoxicated. There, a few unprincipled white men, equally regardless of the laws of God and of their country, continue, for filthy lucre's sake, to sell the deadly poison to those Indians who resort thither.

Other evidences of improvement we have in the increase of industry, and a consequent advance in dress, furniture, and all the comforts and conveniences of civilized life. It has been remarked by many, that the fields of the Indians have never been kept in so good order, and managed with so much industry, as for the two past years. At councils and other large meetings, the Indians, especially in the Northern and Western districts, appear comfortably and decently, and some of them richly

clad. A great desire is manifested to obtain furniture for their houses; and some are already supplied in a manner not inferior to that of new settlers in our own country.

The result of a census taken in 1828, in the Northeast district, was as follows, viz: population, 5,627; nett cattle, 11,661; horses, 3,974; oxen, 112; hogs, 22,047; sheep, 136; spinning wheels, 530; looms, 124; ploughs, 360; wagons, 32; blacksmiths' shops, 7; coopers' shops, 2; carpenters' shops, 2; white men with Choctaw families, 22; schools, 5; scholars in a course of instruction, about 150. In one clan, with a population of 313, who eight years ago were almost entirely destitute of property, grossly intemperate, and roaming from place to place, there are now 188 horses, 511 cattle, 853 hogs, 7 looms, 68 spinning wheels, 35 ploughs, 6 oxen, 1 school, and 20 or 25 scholars.

Some of their mechanical shops, and many of their tools, bear a poor comparison with what we find in civilized lands, and would be considered of little use by those who have good ones; yet to these people they are of great value. And it must excite pity in every one who looks into their circumstances, to see them laboring to cultivate the soil, build houses, manufacture cloth, and struggling to rise from their deep poverty, by the aid of such miserable tools as many of them are obliged to use.

The Northeast district, in 1828, appropriated \$1,500 of their annuity for the establishment and support of blacksmiths' shops. In 1829, they appropriated their whole annuity to similar objects. As an evidence of industry and public spirit, I would mention that in one neighborhood the natives have built a smiths' shop, chopped wood for a large coal pit, and carried it on their backs to the place of setting; have built a house for their blacksmith, and cleared for him a field of twelve acres, all with their own hands; they have purchased with their annuity a set of tools, and iron and steel to the amount of \$200, and have engaged to pay their smith \$300 more annually for three years. Similar provision has been made for shops in other places.

Another evidence of the progress of improvement among the Choctaws, is the organization of a civil government. In 1826 a general council was convened, at which a constitution was adopted, and legislative powers were delegated to a national committee and council, whose acts, when approved by the chiefs, became the supreme laws of the land. I have now before me a manuscript code, containing 22 laws, which have been enacted by the constituted authorities, and, so far as I know, carried into complete execution. Among the subjects embraced by these laws, are theft, murder, infanticide, marriage, polygamy, the making of wills, and settling of estates, trespass, false testimony, what shall be considered lawful enclosures around fields, &c. &c.

Another evidence of improvement we have in the abolishing of ancient and injurious customs: The erection of poles in honor of the dead; crying at these poles morning, noon and night, for weeks and months; large meetings for feasting, dancing, and intemperance, when the poles are pulled down, have been fruitful sources of poverty and licentiousness to the Choctaws. These practices, interwoven as they were with the strongest prejudices and superstitions of the people, have been abolished by an unanimous vote in a general council of the Western district; and they are fast going out of practice, or becoming

greatly modified in the other parts of the nation. The killing of persons for witchcraft, by which innocent blood has been shed, is now hardly known.

A great desire for the education of their children furnishes another proof of the advancement of the Choctaws. Petitions are frequently made, requesting the establishment of new schools. Numbers more have applied for admission to the boarding schools than could be received. Nothing is now wanting but suitable persons and adequate means to extend the advantages of education to all parts of the Choctaw nation.

The preaching of the Gospel has, within the two past years, been attended with very happy effects. To its influence must be ascribed much of that impulse which has recently been given to the progress of civilization in the more favored parts of the nation. The light which the Gospel has diffused, and the moral principles it has imparted to adult Choctaws, have laid a foundation for stability and permanency in their improvements. In this district, eighty-two natives, principally heads of families, are members of the church. All these, with one exception, have maintained a consistent christian character, and would do honor to any Christian community.

So far as relates to the suppression of intemperance, and the salutary effects of the laws generally, the preceding remarks will apply, with few exceptions, to the whole nation. The direct influence of the Gospel and of schools is more limited in its effects, and, as yet, is principally confined to those parts of the nation which have enjoyed the means of instruction. But what has been effected in some parts of the nation, proves what may be effected in all parts of it, by an application of the same means.

I would not have it understood that there is no opposition among the Choctaws to these measures of reform and civilization. In all communities, many are found, who, from ignorance, prejudice, or natural depravity, are opposed to all efforts to reform or improve society. This is especially to be looked for among a heathen people. All who are slaves to whisky, and those who have lost their influence and authority by intemperance, are ready on every occasion to encourage disturbances, and, if possible, to bring about a revolution favorable to their wishes.

There is, however, little doubt, if the Choctaws are permitted to carry on their plans of civilization and self-government, that the change, so auspiciously commenced, will, in due time, and as fast as the means can be furnished, be extended over the nation, and they at length become a happy and enlightened people.

We look with trembling solicitude to the measures now in contemplation, as in our apprehension the annihilation or salvation of the Choctaws will be involved in the issue. It is our earnest prayer, that, as a nation, we may never forget our high and peculiar responsibility to the Sovereign of the Universe, how we discharge the trust committed to us, as the guardians of the Indians; and that by our acts we may declare to the world, in the language of the political Father of our Country, that it is "worthy of a free, enlightened, and great nation, to give to mankind the magnanimous and too novel example of a people always guided by an exalted justice and benevolence."

I am, respectfully, your obedient servant,

C. KINGSBURY.

P. S. The principal part of the preceding communication was prepared some time since for publication. I now regret that a copy had not, at that time, been forwarded to the War Department. I see no reason, after the lapse of nearly a year, to make any material alteration in the statements. I ought, however, to state, that an unprincipled white man, anticipating what he supposed would soon be the unprotected state of the Indian country, has recently introduced whisky into the nation, and some mischief has been done by it. I am happy to learn that the agent is determined to put a stop to such iniquitous proceedings.

Letter from Samuel A. Worcester, relating to the condition and civilization of the Indians.

NEW ECHOTA, CHEROKEE NATION,

March 15, 1830.

Mr. Wm. S. GOODEY, Washington City.

Dear Sir: I cheerfully comply with your request, that I would forward to you a statement respecting the progress of improvement among your people, the Cherokees. Whatever might be said of the propriety or impropriety of Missionaries discussing the question of the removal of the Indians, it can hardly be doubted that it is proper for any one to give a statement of what passes under his observation, in regard to the present condition of the tribes interested in that question. I shall not say any thing in this communication which I shall be unwilling to have come before the public, accompanied with my proper signature, if occasion require.

Whatever deficiencies there may be in my statements, I shall use my utmost endeavor that nothing colored—nothing which will not bear the strictest scrutiny—may find a place.

It may not be amiss to state, briefly, what opportunities I have enjoyed of forming a judgment respecting the state of the Cherokee people. It was four years last October since I came to the nation, during which time I have made it my home, having resided two years at Brainerd, and the remainder of the time at this place. Though I have not spent very much of the time in travelling, yet I have visited almost every part of the nation, except a section on the Northeast. Two annual sessions of the General Council have passed while I have been residing at the Seat of Government, at which times a great number of the people of all classes and from all parts are to be seen.

The statistical information which has been published respecting this nation I hope you have on hand, or will receive from some other source; it goes far towards giving a correct view of the state of the people. I have only to say, that, judging from what I see around me, I believe that a similar enumeration made the present year would show, by the comparison, a rapid improvement since the census was taken.

The printed constitution and laws of your nation, also, you doubtless have. They show your progress in civil polity. As far as my knowledge extends they are executed with a good degree of efficiency, and their execution meets with not the least hindrance from any thing like a spirit of insubordination among the people. Oaths are constantly ad-

ministered in the courts of justice, and I believe I have never heard of an instance of perjury.

It has been well observed by others, that the progress of a people in civilization is to be determined by comparing the present with the past. I can only compare what I see with what I am told has been.

The present principal chief is about forty years of age. When he he was a boy, his father procured him a good suit of clothes, in the fashion of the sons of civilized people; but he was so ridiculed by his mates as a *white* boy, that he took off his new suit, and refused to wear it. The editor of the Cherokee Phoenix is twenty-seven years old. He well remembers that he felt awkward and ashamed of his singularity, when he began to wear the dress of a white boy. Now every boy is proud of a civilized suit, and those feel awkward and ashamed of their singularity who are destitute of it. At the last session of the General Council, I scarcely recollect having seen any members who were not clothed in the same manner as the white inhabitants of the neighboring States; and those very few (I am informed that the precise number was four) who were partially clothed in Indian style were, nevertheless, very decently attired. The dress of civilized people is general throughout the nation. I have seen, I believe, only one Cherokee woman, and she an aged woman, away from her home, who was not clothed in at least a decent long gown. At home, only one, a very aged woman, who appeared willing to be seen in original native dress; three or four, only, who had at their own houses dressed themselves in Indian style, but hid themselves with shame at the approach of a stranger. I am thus particular, because particularity gives more accurate ideas than general statements. Among the elderly men there is yet a considerable portion, I dare not say whether a majority or a minority, who retain the Indian dress in part. The younger men almost all dress like the whites around them, except that the greater number wear a turban instead of a hat, and in cold weather a blanket frequently serves for a cloak. Cloaks, however, are becoming common. There yet remains room for improvement in dress, but that improvement is making with surprising rapidity.

The arts of spinning and weaving, the Cherokee women, generally, put in practice. Most of their garments are of their own spinning and weaving, from cotton, the produce of their own fields; though considerable Northern domestic, and much calicoe is worn, nor is silk uncommon. Numbers of the men wear imported cloths, broadcloths, &c. and many wear mixed cotton and wool, the manufacture of their wives; but the greater part are clothed principally in cotton.

Except in the arts of spinning and weaving, but little progress has been made in manufactures. A few Cherokees, however, are mechanics.

Agriculture is the principal employment and support of the people. It is the dependence of almost every family. As to the wandering part of the people, who live by the chase, if they are to be found in the nation, I certainly have not found them, nor even heard of them, except from the floor of Congress, and other distant sources of information. I do not know of a single family who depend, in any considerable degree, on game for a support. It is true that deer and turkeys are frequently killed, but not in sufficient numbers to form any dependence as the means of subsistence. The land is cultivated with very different de-

degrees of industry ; but I believe that few fail of an adequate supply of food. The ground is uniformly cultivated by means of the plough, and not, as formerly, by the hoe only.

The houses of the Cherokees are of all sorts ; from an elegant painted or brick mansion, down to a very mean log cabin. If we speak, however, of the mass of the people, they live in comfortable log houses, generally one story high, but frequently two ; sometimes of hewn logs, and sometimes unhewn ; commonly with a wooden chimney, and a floor of puncheons, or what a New England man would call slabs. Their houses are not *generally* well furnished ; many have scarcely any furniture, though a few are furnished even elegantly, and many decently. Improvement in the furniture of their houses appears to follow after improvement in dress, but at present is making rapid progress.

As to education, the number who can read and write English is considerable, though it bears but a moderate proportion to the whole population. Among such, the degree of improvement and intelligence is various. The Cherokee language, as far as I can judge, is read and written by a large majority of those between childhood and middle age. Only a few who are much beyond middle age have learned.

In regard to the progress of religion, I cannot, I suppose, do better than to state, as nearly as I am able, the number of members in the churches of the several denominations. The whole number of native members of the Presbyterian churches is not far from 180. In the churches of the United Brethren are about 54. In the Baptist churches I do not know the number ; probably as many as 50. The Methodists, I believe, reckon in society more than 800 ; of whom I suppose the greater part are natives. Many of the heathenish customs of the people have gone entirely, or almost entirely, into disuse, and others are fast following their steps. I believe the greater part of the people acknowledge the Christian religion to be the true religion, although many who make this acknowledgment know very little of that religion ; and many others do not feel its power. Through the blessing of our God, however, religion is steadily gaining ground.

But it will be asked, is the improvement which has been described general among the people, and are the full blooded Indians civilized, or only the half breeds ? I answer, that in the description which I have given, I have spoken of the mass of the people without distinction. If it be asked, however, what class are most advanced—I answer, as a general thing, those of mixed blood. They have taken the lead, although some of the full blood are as refined as any. But though those of mixed blood are generally in the van, as might naturally be expected, yet the whole mass of the people is on the march.

There is one other subject, on which I think it due to justice to give my testimony, whatever it may be worth. Whether the Cherokees are wise in desiring to remain here or not, I express no opinion. But it is certainly just, that it should be known whether or not they do, as a body, wish to remain. It is not possible for a person to dwell among them without hearing much on the subject. I have heard much. It is said abroad, that the common people would gladly remove, but are deterred by the chiefs, and a few other influential men. It is not so. I say, with the utmost assurance, it is not so. Nothing is plainer than that

it is the earnest wish of the whole body of the people to remain where they are. They are not overawed by the chiefs. Individuals may be overawed by *popular opinion*, but not by *the chiefs*. On the other hand, if there were a chief in favor of removal, he would be overawed by *the people*. He would know that he could not open his mouth in favor of such a proposition, but on pain, not only of the failure of his reelection, but of popular odium and scorn. The whole tide of national feeling sets, in one strong and unbroken current, against a removal to the West.

Your sincere friend,

SAMUEL A. WORCESTER.

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